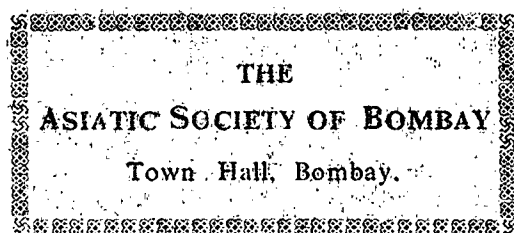




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SELECTIONS FROM THE RECORDS OF THE BOMBAY
GOVERNMENT.

•No. LVI.—NEW SERIES.

CIRCULAR ORDERS

ISSUED FOR THE GUIDANCE OF

OFFICERS IN SIND,

IN THE JUDICIAL DEPARTMENT.

108430 *an*

REVISED AND COMPILED BY

JAMES GIBBS, C.S.,

JUDICIAL ASSISTANT TO THE COMMISSIONER IN SIND.

cx h 10

Bombay:

PRINTED AT THE

EDUCATION SOCIETY'S PRESS, BYCULLA.

1860.

P R E F A C E.

IN compiling this edition of the Circular Orders which have been issued, from time to time, for the information and guidance of Officers in the Judicial Department in Sind, I found it necessary to revise and re-write nearly all. This was the more required as the circulars had generally been issued to provide for isolated points which arose in cases coming before the Commissioner for confirmation or in appeal, and did not therefore contain anything like a connected series of instructions on any one subject. To remedy this, I collected all the circulars, arranged them under different headings, and then embodied those on each subject in one circular, adding the links necessary to complete the chain of instructions.

Some circulars, such as Nos. IV., V., VI., and VII. of Part II., are published nearly word for word as originally issued. A few modifications and—in the case of Nos. IV. and VII.—extensions of the original scheme have however been added.

The classification into parts has not been made very strictly, it was impossible to distinguish in some cases between the duties of a Magistrate and the Police when mixed up in one circular. Officers are therefore to look to the divisions merely as a general guide in tracing the particular order they require.

The object of Part I. is explained in the note appended by Sir Bartle Frere, and needs, therefore, no further mention in this place.

Part II. comprises the circulars regarding the administration of Civil Justice. The rules laid down in No. III. will, I trust, tend to simplify the proceedings of the Civil Courts. They have long been in MS., and many of them have already been adopted at my verbal request.

Part III. relates to Criminal Justice. Circular No. II. will be found to contain much of the printed Circulars issued in 1856; but a single form of trial has been substituted for the three forms of procedure then published, and one form of deposition to be used in all cases has been adopted.

Part IV. contains circulars particularly affecting the Police, and although many of their duties are laid down in other parts of the work, the circulars arranged under this Part will be found to be of more frequent reference.

In Part V. (Miscellaneous) I have introduced a short account of the steps taken to check female suicides in Sind, and have given a sketch of the rise of the Native Judicial Officers in the province. The one as showing a curious attempt made by the people to avoid the stringent orders of Sir C. Napier, for putting a stop to the barbarous practice of wife-killing, the other as exemplifying the success which has attended a measure introduced in the face of considerable opposition from the local officers of the time.

Part VI. contains the Rules for Jails. A Committee, consisting of the Captain of Police in Sind, the Lieutenant of Kurrachee Police, and myself, were about to codify the rules which, from time to time, had been issued, as also to reduce to writing many of the customs, varying in different localities, when the Manual published by the Punjaub Government was received, and, at Sir Bartle Frere's suggestion, the committee took it as their guide. Alterations and additions will be found, some required from local circumstances, some considered by the committee as improvements. For the labour and time saved by the adoption of the Manual, I here tender my best acknowledgments.

The Addenda, which follows Part VI., contains a few circulars which had escaped my notice in compiling the former parts, together with some new instructions issued since the work went to press.

An Index has been prepared, and will be found following the table of contents, of the number and date of every circular issued in the Judicial Department from the year 1847, together with a note showing whether it has been cancelled or incorporated in the present

compilation. But it is particularly requested that this work be used without reference to the old circulars, and be alone quoted in all official correspondence. The main object of the index is to show that, from the first establishment of civil administration in Sind, the attention of those in authority has been earnestly directed to the improvement of the judicial administration of the province.

It having been suggested that a sketch of the different systems for the administration of justice which have existed from the conquest up to the present time would be useful, the following brief account is given.*

On our taking possession of the country, magistrates were at once appointed who had limited powers (six months' imprisonment, 50 lashes, and Rs. 100 fine), and by these all trivial cases were disposed of. For a short time, they were allowed to decide, subject to the confirmation of the Governor, cases of greater magnitude, involving punishments of 7 years' imprisonment; but this authority was soon withdrawn, and all cases requiring more than six months' imprisonment were directed to be disposed of by military commissions composed of a field officer and two captains or subalterns of 7 years' standing; a Memo. detailing the punishments considered suitable to the nature of the ordinary offences was issued by the Governor for their guidance.

There is no doubt but that this machinery was very cumbrous, the proceedings were prolix and often not to the point. After a time, the members of these commissions were, in so many words, informed that they were nothing more than "a sort of council" "possessing no legal authority," whose sentences were liable to be enhanced or reduced at the pleasure of "a despotic governor, whose will was the sole law of the province;" and this absence of responsibility sensibly affected the value of the institution, which became little more than a machine for recording the depositions of witnesses, to enable the governor to form his opinion of the guilt of the party accused.

* Abridged from my Judicial Report, published by Government in 1857.

As regards the administration of Civil Justice during this period, little or nothing was done to put it on a proper footing. A five per cent. institution fee was ordered, but the cases when filed were referred generally to punchayets or cazees, whose decisions, however, were often upset by the Magistrate or Deputy, without any reasons being recorded. The consequence was, that very few civil suits were presented for trial.

This system was however continued, until the beginning of 1849, when, under instructions from the Bombay Government, tribunals were established and cases ordered to be disposed of according to the spirit of the Code of 1827.

(1) The Commissioner's, (2) the Magistrate's, (3) the Deputy Magistrate's, and (4) the Kardar's, were the Courts instituted; but the last-mentioned were not allowed to commence work until some two years later. Additions and modifications have been introduced from time to time, and the present constitution of the Courts will be found in circulars No. I. of Part II. and No. I. of Part III.

In conclusion, I beg to apologize for this work not being so complete as I could wish; it having been prepared in the midst of very heavy daily work must be my excuse; but as a step to arrange and bring into order a mass of circulars, some of which have become obsolete, others modified, and some cancelled, I trust it will be found useful to all the officers engaged in the administration of justice in the province of Sind.

JAMES GIBBS,

Judicial Assistant to the Commissioner in Sind.

Kurrachee, November 1859.

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I N D E X

SHOWING THE

NUMBERS and DATES of CIRCULARS issued in the JUDICIAL DEPARTMENT
from the Year 1847.

No. and date of Circular.			Subject.	Remarks.
1847				
79	April	26th	Statements of Judicial Officers to be taken on oath ..	Embodied.
	"	22nd	Regarding the implements of trade of civil debtors. . .	"
	June	26th	Female suicide	"
289	Oct.	15th	Accused parties to be admitted to bail, except in certain cases	"
1848				
14	Jan.	17th	Female suicide	"
25	"	26th	Police not to interfere in cases of abortion	"
142	May	20th	Imposition, levy, and commutation of fines	"
172	June	8th	Prisoners to be sent to jail, pending confirmation, with extract of trial	"
192	"	24th	Cattle stealing	"
215	July	12th	Female suicide	"
256	August	12th	Dismissal of Government servants	"
270	"	26th	Rules for granting relief to pauper prisoners on their discharge from jail	"
1849				
53	April	14th	Village officers ; also Patels	"
	"	29th	Magisterial power of the Captain and Lieutenant of Police	"
151	May	19th	Designation of Collectors, Magistrates, and their Deputies	Omitted.
180	June	2nd	Sentences requiring confirmation not to be executed till confirmed	Embodied.
210	"	13th	Definition and classification of crimes and punishment.	Omitted.
256	July	2nd	Points explained connected with the Regulations ...	"
	"	26th	Reduction of correspondence	Embodied.
348	August	9th	Proceedings for confirmation to be sent by letter ...	"
	Sept.	8th	Official letters in the same office and in the same department to be sent in one envelope	"
512	October	8th	Confession of prisoners	"
527	"	9th	Copies of documents referred to in proceedings to be sent	"
1850				
80	Feb.	12th	Assessors on trials merely to give a verdict of guilt or innocence	"
154	March	13th	No prisoners to be allowed to work outside jails unfettered.	"
	"	29th	Entertainment of establishment for jails and jail hospitals	"
324	May	27th	Responsibility for non-apprehension of offenders ...	"
492	July	22nd	Period of imprisonment to reckon from the date of sentence	"
510	"	29th	Power to sanction rewards to puggces, up to Rs. 50, vested in Magistrates and Captain of Police	"

No. and date of Circular.	Subject.	Remarks.
548 August 12th	Imprisonment awarded in commutation of fine to be always mentioned.....	Embodied.
" 24th	Fine combined with imprisonment with hard labor, imprisonment in commutation to be with hard labor..	"
1851		
Jan. 4th	Register, showing the state of health of each prisoner, to be kept in Jail by Medical Officer.....	"
Feb. 18th	Fining prisoners in certain cases preferable to imprisonment. Fines when not paid to be levied by distress	"
121 " 28th	Witnesses to identify prisoners in Court	"
174 March 19th	Prisoner's father's name and tribe to be given in all proceedings	"
257 April 15th	Trials, witnesses' statements, and defence in full to be recorded in the Vernacular language: proceedings and depositions to be explained	"
June 4th	Perjury and forgery not to be tried by the officer before whom the crime was committed.....	"
449 " 4th	Criminal procedure; perjury	"
July 5th	Public officers not to assist parties in preparing petitions, memorials, &c. &c.	"
619 " 16th	Finding and sentence to be in the Magistrate's own handwriting	"
668 August 11th	Rules for the administration of civil justice by kardars.	"
696 " 21st	Summary of the case with finding required by Government	"
771 Sept. 12th	Foujdars to exercise criminal powers only.....	"
987 Dec. 10th	Rules regarding cases committed for trial.....	"
" 22nd	Enjoining ready accessibility to all officers by petitioners and others.....	"
1852		
55 Feb. 2nd	Adultery to be prosecuted by the husband, or by father or brother	"
67 " 6th	Trials for confirmation	"
75 " 6th	Proceedings to be sent for confirmation, when authorized limit is exceeded by additional imprisonment in commutation of fine	"
122 March 1st	Officers of Police to send criminal returns	"
261 April 16th	Courts to be public to all persons.....	"
311 " 28th	All requisite particulars to be given in the description of convicts, under sentence of transportation, being sent to jail, &c.	"
386 May 11th	Returns of civil suits to be made for calendar months..	"
400 " 14th	Judicial work to take precedence of all other	"
408 " 17th	Extent of magisterial power exercised by officers	"
679 July 13th	Old and infirm prisoners not to be sentenced to such punishment as they cannot bear	"
630 " 13th	Warrant on prisoners from another zillah, convicted of criminal offence, to be sent to the Lieutenant of Police of that Zillah.. ..	"
730 " 24th	Rules for record of criminal trials	"
921 Sept. 10th	Curtailling the record of criminal trials.....	"
1069 Oct. 14th	Persian proceedings to be sent with English proceedings for confirmation	"

No. and date of Circular.			Subject.	Remarks.
1314	Dec.	8th	New monthly civil return	Embodied.
1343	"	30th	Regularity to be observed in the Persian record of * Criminal cases	"
1853				
20	Jan.	7th	Report of the inquest in murder cases to be proved by two of the jurors	"
92	"	31st	Confessions before Policemen	"
144	Feb.	15th	Delay in trials of murder	"
147	"	16th	Punishment for cattle stealing	"
185	"	24th	Original criminal proceedings to be returned to Magis- trates	"
277	March	22nd	Number of sick prisoners released to be shown in criminal return	"
367	April	14th	The space to be allowed for each prisoner in jail	"
395	"	21st	Regarding civil suits	"
406	"	23rd	Civil returns	"
446	"	30th	Delay in trials	"
487	May	11th	Limitation of time for admitting appeals	"
486	"	11th	Spelling names of parties and prisoners	"
518	"	17th	Cattle stealing	"
531	"	20th	Cattle stealing	"
598	June	4th	Insolvent debtors	"
736	July	7th	Execution of decrees	"
744	"	9th	Subsistence money to witnesses	"
804	"	21st	Female suicide	"
862	August	1st	Wives refusing to live with their husbands	"
868	"	3rd	Proceedings of Deputy Magistrate, submitted for con- firmation, not to be copied	"
916	"	11th	Her Majesty's Supreme Court's warrants to bear the Regulation on the face	"
922	"	13th	Duty of Police officers in murders as to confession	"
943	"	17th	Police confessions	"
1015	Sept.	2nd	Preparing the English proceedings on trials during the time the trial is going on	"
1017	"	3rd	Regarding the instruction in Head Quarter jails	"
1089	"	21st	All proceedings (nominal rolls) must have prisoner's father's name in full	"
1159	October	6th	Fees for summonses in civil cases	"
1192	"	18th	Bearing arms	"
1343	Nov.	29th	Fees for summonses	"
	"	"	Protection to dumb animals	"
	"	"	Female suicide	"
1854				
40	Jan.	17th	Extended powers to Kardars	"
43&44	"	18th	Prohibiting the transfer of prisoners from one jail to another until further orders	"
167	Feb.	23rd	Confessions to be recorded for prosecution, not for defence	"
206	March	3rd	Regulation or Act authorizing sentence to be shown in proceedings	"
319	"	31st	Proceedings sent to Government to be well copied, paged, indexed with names of witnesses, and No. of exhibits	"

No. and date of Circular.			Subject.	Remarks.	
575	May	29th	Kardar to perform Cazee's duty where there is none appointed	Embodied.	
744	July	7th	Jurisdiction of Civil Courts		
794	"	18th	Acquittals by Deputy Magistrate		
819	"	21st	Suits for removing attachment		
840	"	27th	Attempts at adultery		
871	August	4th	Trials how to be conducted when prisoners plead guilty		
892	"	8th	Adultery cases how to be disposed of		
1014	Sept.	2nd	Prohibiting prisoners being sentenced before preparing proceedings, on the deposition of witnesses recorded in their absence		
1168	"	27th	Skill of professional trackers to be relied on as evidence		
1855					
513	May	5th	Rough proceedings to accompany the fair sent to Government for confirmation	Cancelled. Embodied.	
1688	Dec.	24th	Extended judicial power to Kardars		
1710	"	27th	Registration fees by Cazees		
1856					
109	Feb.	11th	Registration of deeds	"	
200	March	4th	Registration circular		
445	May	3rd	Relative to grant of permission to carry arms		
472	"	8th	Civil suits against Government officers		
480	"	9th	Flogging in petty cases not to be awarded with long terms of imprisonment.		
691	July	4th	Procedure in criminal trials		
709	"	8th	Kardar can award only 4 months' imprisonment; no Deputy Magistrate can enhance such sentence		
743	"	21st	Cases to be entered in civil returns when disposed of by Kardar, under No. 40, of 17th January 1854, and 1638, of 24th December 1855		
1857					
112	Feb.	4th	Attempts at suicide how to be dealt with		"
351	April	1st	Exacting security		
429	"	15th	Adultery; prison discipline		
634	June	9th	Prisoner to be flogged in presence of medical officer		
1116	October	5th	Evidence for inquests and confessions not to be read and recorded before they are proved		
1234	"	27th	Delay in trial of criminal cases		
1319	Nov.	13th	Fees for summonses and warrants		
1343	"	29th			
1858					
86	Jan.	20th	Insolvent debtors (subsistence to)	"	
249	April	10th	Fees for appeals		
653	May	3rd	Registration of deed		
755	"	13th	Court fees in civil suits		
777	"	17th	Fees on summonses and warrants		
840	"	28th	Wives refusing to live with their husbands		
1334	August	28th	Court's debtors.		

No. and date of Circular.	Subject.	Remarks.
1763	October 26th	Jail discipline Embodied.
1780	„ 29th	Marriage of girls for the purpose of prostitution „
1825	Nov. 8th	Issuing forms for the abbreviation of criminal trial cases, &c. „
2000	Dec. 10th	Officers other than Deputy Magistrates to furnish criminal returns to Magistrates „
55 A	„ 31st	On leniency of sentences for robbery, cattle-stealing, &c. „
1859		
	Feb. 11th	Proclamation prohibiting the marriage of girls to Kmjurs for the purpose of prostitution „
330	„ 28th	Drawing attention to Sir C. J. Napier's proclamation, prohibiting the use of belts and badges except by Government servants „
534	April 19th	Forwarding copies of correspondence from Government, for information and guidance, relative to the liability of British-born subjects to the Mofussil Courts „
707	May 20th	Prohibiting the practice of Vakeels conducting the case of the one party in one court, and of the other party in the appeal „
736	„ 27th	Pleaders' fees „
	„ 30th	Proclamation relative to persons trespassing in private premises „
771	„ 31st	Insolvent debtors' rules, further instructions on „
777	June 1st	Redemption of mortgaged lands „
826	„ 7th	Heavy sentences to be awarded in cases of misconduct as policemen; and cases of cattle-stealing to be tried by Deputy Magistrates „
920	„ 24th	Fees to pundits „
	July 8th	Minute by Mr. Gibbs relative to the law in offences committed by military persons beyond camp limits.. „
1223	August 16th	Instructions regarding intricate accounts in civil cases and the calculation of interest „
1233	„ 17th	Extended powers to Kardars „
	Sept. 5th	Notice:—Establishment of Courts for investigating claims against Caffila merchants „
1404	„ 14th	No provisional sunnuds to be given to Vakeels „
1419	„ 27th	Batta to witnesses to be given in advance „
1970	Dec. 16th	Flogging in cases of adultery prohibited;—fine, or imprisonment, or both, being the only punishments awardable under Act II, of 1845 „

PART I.

SELECTIONS

FROM

THE GENERAL ORDERS

OF

GENERAL SIR C. NAPIER,

GOVERNOR OF SIND.

NOTE.

The following Extracts from the Circulars and General Orders issued by the Conqueror and Governor of Sind have been inserted here, because they bear more or less on questions of Judicial procedure, and Police. Under Sir Charles Napier, justice in all important cases was administered through the agency of a Military Commission, and many of the Orders issued by him are, consequently, inapplicable to an administration of justice by Civil tribunals, but they contain many golden maxims applicable to all countries and people; and they would be well worthy of preservation, were it only for the wit and humour which characterized all he said and wrote. His Orders against marauding, and those pointing out the necessity that a conquering Army should be scrupulously just and forbearing, and that the General, even in the first flush of victory, must protect the conquered people if he wishes to avoid a guerilla warfare, are true for all time. Some of the Orders are of historical importance,—such as the Disarming Order, which was the first in India to direct the complete disarming of a conquered nation, and which was carried out with less offence to the people and trouble to the Officers of Government than would now be believed.

H. B. E. FRERE,
Commissioner in Sind.

P A R T I.

SELECTIONS FROM THE GENERAL ORDERS

OF

GENERAL SIR C. J. NAPIER,

GOVERNOR OF SIND.

No. 1.

*Head Quarters, Sukkur,
16th November 1842.*

* * * * *

But that was not the cause of the Major General's ordering Captain ———
to be placed under an arrest: he was put under
an arrest for striking, and throwing into the
Indus, an inoffensive peon, who gave him no pro-
vocation, but who was obeying the orders he had
received from Captain———. The Major General has heard it said, that the
supremacy of the British over the Native must be maintained in India, and
he entirely concurs in that opinion; but it must be maintained by justice.

Supremacy of British over
Native to be maintained by
justice.

No. 2.

*Head Quarters, Sukkur,
21st November 1842.*

Gentlemen as well as beggars may, if they like, ride to the devil when they
get on horseback, but neither gentlemen, nor
Against furious driving. beggars, have a right to send other people there,
which will be the case if furious riding be allowed in Camp or Bazaar. The
Major General calls the attention of all in Camp to the orders of Lieutenant
Colonel Wallace (dated the 18th ultimo), and begs to add, that he has placed
a Detachment of Horse at Captain Pope's orders, who will arrest any offender;
and Captain Pope will inflict such a fine or other punishment as the Bazaar
Regulations permit.

This Order to be published through the Cantonments, by beat of drum, for
three successive days. Captain Pope is not empowered to let any one off
punishment, because, when orders have been repeated, and not obeyed, it is
time to enforce them:—without obedience, an Army becomes a mob, and a
Cantonment a bear-garden.

The enforcement of obedience is like Physic,—not agreeable, but at times
very necessary.

No. 3.

*Head Quarters, Camp Hyderabad,
22nd April 1843.*

When Officers send their people to make purchases, they must also send money to make the necessary payments. It is not just that the purchaser should put his own price upon any article, and force the vendor to take it; such a principle cannot be admitted.

Free trade.

No. 4.

Remarks on a Native District Court Martial assembled at Hyderabad, on the 28th of April 1843, on a private of the Golundauze Battalion, charged with oppressive conduct towards certain villagers, and sentenced to undergo two months' ordinary imprisonment.

My complying with the wishes of the Court is impossible. I consider its sentence as utterly inadequate to the offence of which the culprit has been convicted. I am charged with the protection of the people of Sind; I am charged with the honour of the Company's Service,—I am charged with the safety of this Army,—and am charged with the success of our Arms. Now, I consider all acts of plunder calculated to injure these matters, in the very highest degree; and, if I am not supported by Military tribunals, I must resort to the higher powers vested in me by Act of Parliament, which I exceedingly dislike to do. The prisoner has been convicted of direct marauding—in face of all Military discipline, in face of my orders, and in face of the orders received from his own Captain. His trumpery defence is just what every criminal adduces—so many mere assertions, carrying their contradiction along with them. Had I been on the Court, I should have sentenced him to, at least, one year's imprisonment with hard labour. However, the sentence passed upon him, trifling as it is, he must undergo in the Fortress of Hyderabad; and I take this opportunity to republish what I have already put in public orders, that the first case of aggravated plundering which is brought to my notice, and clearly established, I will punish to the utmost extent allowed me by Act of Parliament, namely, *Death*. The people must be protected.

Oppression of villagers prohibited.

No. 5.

*Head Quarters, Camp Hyderabad,
13th May 1843.*

No man is to be discharged from any of the Civil Establishments without a

report being made to the Commissioner for Civil Administration, of the circumstances which produced the infliction of such punishment, against which an appeal may always be made to the Governor.

No arbitrary dismissal from employment is to take place with regard to individuals receiving above Rupees thirty (30) per month, except by the orders of the Governor General, but the Governor of Sind has a right to suspend any functionary in case of misconduct, referring the same to the Governor General.

No. 6.

*Head Quarters, Kurrachee,
1st February 1844.*

His Excellency the Governor directs that no Officer in Sind, having charge of a public Office, shall entertain any Writer or party who may have quitted other Offices, unless they can produce certificates that they have done so with the consent of the Officer under whom they may have been formerly employed.

• No. 7.

*Head Quarters, Kurrachee,
12th February 1844.*

The Governor unfortunately does not understand Hindoostanee, nor Persian, nor Mahratta, nor any other Eastern dialect. He therefore will feel particularly obliged to Collectors, Sub-Collectors, and Officers writing the proceedings of Courts Martial, and all Staff Officers, to indite their various papers in English, larded with as small a portion of the—to him—unknown tongues as they conveniently can, instead of those he generally receives, namely, papers written in Hindoostanee, larded with occasional words in English.

Any indent made for English Dictionaries shall be duly attended to, if such be in the stores at Kurrachee; if not, gentlemen who have forgotten the vulgar tongue, are requested to procure the requisite assistance from England.

No. 8.

*Head Quarters, Kurrachee,
16th February 1844.*

1. All Officers in Command, and Officers of the Revenue, must exercise

their discretion as to people found bearing arms. If these cannot give a good account of themselves, their arms must be taken from them; but if they are travellers, who evidently carry arms for their protection, they are not to be deprived of them. No man is to bear arms in the towns, except in passing through.

2. All Chiefs who have made their Salaam, are entitled to carry arms personally.

3. All merchants who live in Sind are to apply to the Lieutenant of Police when they send out people with merchandize, and the Lieutenant of Police should give to the said merchant a 'permit' to carry arms. This 'permit' is to be given free of all expense, and will state the number of people, and the number and description of arms which the merchant requires; and for the good conduct of these, his people, the merchant is to be responsible.

No. 9.

*Head Quarters, Kurrachee,
25th February 1844.*

Officers must not shoot Peacocks: if they do, the Beloochees will shoot Officers,—at least so they have threatened; and
 Against shooting peacocks. Major General Napier has not the slightest doubt but that they will keep their word. There are no wild peacocks in Sind; they are all private property, and sacred birds; and no man has any right whatever to shoot them. The Major General is satisfied that, after this warning, no Officer will again give such offence to the people, whose tranquil behaviour and extreme civility has been the subject of general remark and admiration; but this tranquillity has been produced by the good conduct of the Officers of this Army in the first instance, and by the strict discipline which has been preserved; therefore, a deep responsibility will lie upon any man who wantonly destroys the harmony now existing. If there be one evil which the Major General has more strenuously endeavoured to avoid than another, it is that of a guerilla war. If such a misfortune should arise, there is no saying where the sacrifice of life and treasure would end: every man who has common sense must see this.

No. 10.

*Head Quarters, Kurrachee,
8th May 1844.*

It having been brought to the notice of His Excellency the Major General, by Officers commanding Detachments, that the inhabitants of certain villages had deserted them, in consequence of guides having been seized, and not only ill-treated, but not paid for their labour, His Excellency directs that
 Against ill-treatment and non-payment of just wages.

Officers commanding Stations and Detachments in Sind will use their utmost endeavours to put a stop to such a practice.

The greatest inconvenience must arise to the Public Service if such injustice is permitted to be used towards the peaceable inhabitants; and should it be persisted in, Regiments and Detachments will shortly find themselves in the greatest difficulties from the desertion of these useful people.

No. 11.

*Head Quarters, Kurrachee,
26th December 1845.*

The Governor knows right well the desire of every Officer to march against the Enemy; so it is with every private soldier. He wishes that he could take every man in Sind, but Sind must be guarded, and every man must make his mind up to do his duty where the State requires his services. That is the post of honor. Having premised this, the Governor hopes that all in this Army will be satisfied with the assurance that he is not influenced by any feeling but the good of the Service, as far as his judgment enables him to act, and that he may be spared the pain of refusing particular applications to march with the Field Force.

The post of honor.

No. 12.

*Head Quarters, Camp Kurrachee,
25th April 1846.*

1. The Police have no jurisdiction within Cantonments, but are, if they see anything going wrong, to arrest the ill-doer even there.

The jurisdiction of the Police in Cantonments regulated.

2. In that case, they bring him, not before their own Officer, but before the Bazaar Master.

3. Every one present, whether Civil or Military, is bound to assist the Police on such occasions.

4. If offence is committed outside the bounds of the Cantonment, by soldiers or camp followers, the Police are to take the offender before the Lieutenant of Police, who is to take cognizance of the offence according to his instructions. His jurisdiction extends to all offenders, and his sending such to the Military Authority is unnecessary, unless the Officer of Police should deem it advisable so to do; and this, in ordinary cases, may be the best way of dealing with offenders, and is recommended.

5. The Officer of Police should always report, through the Brigade Major,

to the Commandant of the Station, when any person belonging to the Cantonments has been arrested; but it is not necessary to do more, unless by a special order by the Commandant in any particular case.

6. In the case reported, the Policemen are accused of beating their prisoner. This must be inquired into, and, if true, they are to be warned that, if it happen again, serious notice will be taken, unless the conduct of the prisoner warranted such a proceeding, by refusing to surrender himself a prisoner, and defending himself against lawful arrest.

7. The above Order is based upon the principle, that the Police force is held responsible for the security of society: to preserve tranquillity, it must promptly seize and punish offenders.

No. 13.

*Head Quarters, Camp Kurrachee,
20th April 1847.*

There are men who go about with belts across their shoulders; and brass badges: they pass themselves upon the poor people as Government Peons, and do much mischief, robbing the people,—all which is laid upon the Government. It is therefore ordered, that none but men in Government employment are to wear these belts. Those of the Military Department are to be *red*; those of the Civil Department to be *blue*.

Any man found with a belt over his shoulder, who is not in Government employ, is to be taken up by the Police, and a report made to the Governor, who is determined to prevent the tyranny which has, in numerous cases, been inflicted upon the people of Sind, especially by the peons of the contractors.

No. 14.

*Head Quarters, Camp Kurrachee,
19th April 1847.*

The Cantonment of Kurrachee is infested by vagabonds, who came with the troops from Bombay. The Police and Bazaar Master are to arrest all such men as have no ostensible means of earning their bread, and send them back to the place from which they came to Sind. Those who do not belong to Bombay, are to be put to work on the roads for a month, and then liberated for three days, at the end of which time if they do not find work, they are to be again sent to the road gang. There are good wages and plenty

Disposal of vagabonds and
people without professions.

of work going on in Sind, and the Lieutenant General Governor will not allow vagabonds to be loose on the public to rob industrious people.

This Order to apply to all the other stations in Sind.

No. 15.

*Head Quarters, Camp Kurrachee,
12th May 1847.*

His Excellency the Lieutenant General directs, that all persons passing through, or halting at Wuttajee, are to show respect to the Musjid there.

The walls of the building are not to be defaced ; and no animals are, on any account, to be picketed inside.

No. 16.

*Head Quarters, Camp Kurrachee,
30th September 1847.*

The Order of the 4th August 1844, which enables Officers in Civil employments to take any Command which falls to them, is hereby rescinded.

Declaring the establishment of Civil Government in Sind. The Government is now a Civil, not a Military Government, and all Officers holding Civil employment are to report direct to the Secretary to the Government, for the information of the Commissioner.

PART II.

THE ADMINISTRATION OF CIVIL JUSTICE.

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THE ADMINISTRATION OF CIVIL JUSTICE.

No. I.

1. Kardars have authority to try Civil Suits in which the amount in dispute does not exceed Rupees 50; and, when specially empowered, to dispose of cases in which the amount in dispute does not exceed Rupees 200.

Judicial powers exercised by the different Officers in Sind.

2. The limitations to be observed are those laid down in Regulation V. of 1827, and Sir C. J. Napier's Proclamation. (N.B.—This is superseded by Regulation V. in all cases, except those involving immoveable property.)

3. During the absence of the Kardars from their head-quarter station, or when a Kardarate becomes vacant, or the Kardar proceeds on leave, their First Moonshees may dispose of cases up to Rupees 50, and in all suits the First Moonshee may issue the Summons and take depositions during the Kardar's absence on circuit.

4. Suits, excepting those regarding land or immoveable property, in which the amount in dispute does not exceed Rupees 10, are not open to appeal.

The appeal in other cases lies first to the Court of the Deputy Magistrate, and from his decision to that of the Commissioner.

5. The Moonsiffs at Sudder stations try cases up to Rupees 1,000. The appeals from these Officers' decisions lie, first, to the Court of the Magistrate (but are disposed of generally by the Deputy Magistrate in charge of the Adawlut), and finally to that of the Commissioner.

6. The Deputy Magistrates dispose of all other original cases, with an appeal lying from their decision to the Court of the Magistrate, and from his decision to that of the Commissioner.

7. The Magistrate's Court answers to that of the Judge, but is generally one of appeal only, although he may, if he consider it necessary, try any original suit instituted in his Zillah. The Deputy Magistrate in charge of Adawlut takes nearly all the judicial work off the Magistrate's hands, leaving that Officer more at liberty to attend to his Revenue matters, as well as to the general supervision of the Zillah.

8. The Deputy Magistrate in charge of Adawlut has power co-equal with the Magistrate, but has no distinct jurisdiction, and, in consequence, disposes only of cases sent to him by the Magistrate. In any original suit tried by him, the first appeal lies to the Magistrate, the final one to the Commissioner.

His authority is very similar to that of a Joint Judge in India.

9. The Commissioner's is the Court of final appeal; he settles all points of procedure, and generally exercises the power of the Court of Sudder Dewanee Adawlut.

10. There is, beside these, a Court at each Sudder station, composed of the Moonsiff and from three to five members of the Punchayet, whose attendance is settled by rota. This Court tries cases up to Rupees 500, and from their decisions in cases under Rupees 50 no appeal is allowed; in others it lies to the Magistrate, whose decision, if agreeing with the lower Court, is final. It is, however, optional to parties to go before this Court or not.

No. II.

The following fees are to be levied in the Civil Courts in Sind :—

Fees for Civil Suits and Appeals, and for serving Summonses and Warrants.	1. On every original suit or appeal for 20 Rupees and under	Rs. 1 0 0
	For every additional 5 Rupees or fraction of 5 Rupees, Annas	0 4 0

2. The fees for serving Summonses will be regulated according to distance; clear statements of the authorised rates should be placed in a conspicuous part of each Court-room.

3. Fees to be levied for the service of Warrants are to be at the following rates, provided the service be in the town in which the Court is held, or one in which there is a Kardar's or Tuppadar's station :—

For sums under 50 Rs.....	2 Annas.
Above 50 but under 200 Rs.....	3 do.
Above 200 Rs.....	4 do.

4. For the service of Warrants issued by the Supreme Court of Bombay or Courts out of the Province, a uniform fee of 8 Annas is to be levied.

5. Parties wishing to be furnished with copy of a decree of any Court, shall pay a uniform fee of 8 Annas.

6. The above scales relate to cases in which the parties are Natives; when the service has to be made on Europeans, the following rates to be charged :—

	<i>Rs. a. p.</i>
1. For every service within one mile of the Court.	1 0 0
2. For do. do. two miles do.	1 8 0
3. For every extra mile	0 8 0
4. For service at Clifton.	2 8 0
5. For do. at Ghizree.	3 0 0
6. For do. at Keamaree.	3 0 0
7. For do. at Manora or Harbour.	4 0 0
8. For do. in the Roadstead.	6 0 0
9. For do. at Jemadar-ka-Landie	10 0 0

7. All these fees are, in the first instance, to be levied from the party making the application, and are afterwards to be included in the costs of the suit.

8. The above fees, with the exception of the 5 per cent. which is credited to Government, are to be paid into Court, and not credited to Government. From the Fund so formed, the salaries of Extra Moonshees, Peons, and similar charges, are to be defrayed.

9. The accounts of these receipts are to be kept in each Court, and a monthly Return of Receipts and Disbursements by Kardars and Moonsiffs should be sent to the Deputy Magistrate, who will forward a half-yearly Return of their own as well as those of the District Officers, for the information of the Magistrate, by whom a yearly Report, showing the total receipts and expenditure of each Court, shall be forwarded to the Commissioner.

No. III.

The following rules are laid down for the guidance of all Officers in the disposal of Civil Suits and Appeals:—

Powers of Courts.

1. The powers to be exercised by the different grades of Officers will be found at page 12.

Institution of Suits.

Vide Reg. III. of 1827, Sec. III., and Reg. IV. of 1827.

2. In original suits the plaint, which must be signed by plaintiff or his authorised Vakeel or Agent, being received by the Officer, notice should be served on the defendant, requiring him to appear on a certain day, to be regulated according to circumstances, but always as soon as possible; and the plaint being then shown him, and he having taken a copy, should be required to attend with his answer and witnesses the next day, or as soon after as possible, on which date also the plaintiff should be summoned to appear with his proofs and witnesses. The parties being then present, the Court should read the plaint and reply, and take the examinations of both parties on affirmation in explanation of their pleadings, and then record the issues for trial.

3. Written replies and rejoinders should not be allowed as a general rule, the examinations by the Court being sufficient, but in very important or intricate cases the Court may allow them to be filed.

Written Replies and Rejoinders not to be generally allowed.

4. The issues being defined and recorded by the Court, proofs shall be at once taken and witnesses examined, and the decree written and signed at once in the presence of the parties.

Definition of Issues, and the passing of the Decree.

5. The official record shall always be the notes of the presiding Officer written, as far as possible, by himself. If the language of the presiding Officer be not Sindee, a

Language of Record.

translation of his decree shall be made into that language, and signed by him. The limit for appeal to the higher Court should be endorsed at the foot of the decree.

A memorandum in the following form is then to be added :—

Original suit filed in the Court of the of on the
of 18 .

Original suit decided on the of of 18 .
Total course days.

6. The above rules, however, shall not prevent the Officer from at once settling the case, if both parties should happen to be in Court, and the case admits of a settlement on the mere statements of the parties.

7. In cases in which an adjournment may be necessary, the Vernacular proceedings should show it, together with the reasons for it.

Forms, 1.

8. Forms for English and Vernacular proceedings and decrees are attached.

9. Simple debts forming the subject of the great majority of suits in the Province, a form of plaint is also attached for such claims, as also for other simple cases ; parties seeking redress in the Courts should be advised to adopt them.

Forms, 2.

10. When the suit is filed on a bond, the original document, and when on a running account, a copy of the page of the account book, must be appended to the plaint ; and if any receipt or other document is given in the defence, it must be appended to the answer.

Document which forms subject of Plaint or Reply to be filed therewith.

11. All pleadings should be as short as possible, and when lengthy, verbose documents are offered, they should be returned, and directions given for a short plea, containing a simple answer to the claim.

All Pleadings to be short.

12. Punchayets, although advisable in many cases, are not to be considered *absolutely necessary* in all cases, as appears to be the general opinion ; but in any case in which the parties agree to such a course, the deed of arbitration should be in the annexed form, and the decision of the Punchayet should be considered final.

Punchayets when to be employed.

13. When the parties decline to appoint arbitrators, the Court should decide the matter personally or by associating with itself two or more assessors, whose opinion on the point put to them, with their reasons for it, should be, as also the question referred, *in writing* ; and the Court, if it should not adopt the view taken by the assessors, must state its reason for so differing.

Assessors.

14. The Vernacular proceedings should be the same in all Courts, but the notes which the trying authority writes himself, whether in English or the Vernacular, will be considered the formal record of the Court. All these papers should be placed in the case.

Vernacular Proceedings to be alike in all Courts.

15. The parties to the suit should always be allowed in Court while the case is going on, with as many of their friends as may wish to attend. Publicity in all matters, but more especially in civil suits, is of the greatest possible advantage to the Court, and all persons concerned; and where the Courts are held in Government Cutcherries, no obstacle to the free admission of the general public should be allowed.

16. Should the decree not be appealed against, or should it be assented to by defendant, execution should follow as soon as prayed for by the plaintiff; as in all cases the Court has the power to award instalments, there should be little or no delay in the execution of the decree.

17. By the Regulation noted below,* upon the receipt of an application for appeal against the decision of the lower Court, as a copy of the lower Court's decree always accompanies the petition, the Appellate Court should consider whether there is on the face of the application, *prima facie*, sufficient grounds for appeal. If, as is often the case, the petition states no grounds whatever for appealing, or if they are such as are clearly answered and disposed of by the decree appealed against, the application should be rejected, with an endorsement, of which a copy should be given to the petitioner, stating the reasons for disallowing the appeal.

18. In the event of a petition for appeal containing allegations of such a nature that a copy of the decree of the lower Court does not enable the Appellate Court to decide at once upon the admissibility of the appeal, the Court should call for the proceedings, and after a perusal thereof, reject or admit the appeal, as shall seem necessary, recording, as before directed, its reasons if the appeal be disallowed.

19. In the event of an appeal being admitted, the 5 per cent. fee shall be levied, but no fee shall be received until the Court has admitted the appeal.

Proceedings may be called for perusal.

20. Any order rejecting an appeal is, of course, open to revision by the immediate superior Court.†

* Reg. IV. of 1827, Section LXXVI.—“If on any account the application to appeal is rejected, the Judge shall cause an entry to be made on the minutes of the proceedings, of the reasons for rejecting it, and, if applied to, he shall furnish the petitioner with an authenticated copy of the petition, and of the entry so made.”

† Sec. XCVII. of Reg. IV. of 1827.

21. When an appeal is admitted, the same course as laid down in paras. 2, 3, and 4 should be followed; as in many cases the hope of delay in the execution of the decree leads parties to appeal: the best remedy to check any abuse of the privilege is to decide the appeal as early as possible.

22. On the appeal coming on for hearing, the Court is to record the questions for decision, as in the original suit; and these questions are to arise from the appellant's petition, and not from the Court's own appreciation of the lower Court's decree.

23. The Court should be particular in not enlisting itself on the side of the appellant, as is too frequently the case. It is not for the Court to try and pick a hole in the original decree, but to hold it as binding, until the appellant is able to show some error in it. If, therefore, the appellant fails to show cause for interference with the decree of the lower Court, it should at once be confirmed, and, if necessary, the appellant fined for a vexatious petition.

24. Fresh evidence is not, as a rule, to be taken in appeal, or the witnesses of the lower Court re-examined; and in questions of the value of the evidence recorded, it is well to bear in mind that the Court before whom the witnesses deposed must be the best judge of their credibility, from the manner in which they give their testimony, and from other causes. When, therefore, the lower Court has remarked that it places no confidence on a witness' evidence, as, from the manner he deposed, or from some other reason, it was evident he was not speaking the truth, it is not for the Appellate Court, on a mere perusal of the deposition, to decide that the witness did speak the truth.

25. On the decree being passed, execution should be ordered, as soon as prayed for, as directed in para. 16.

26. The costs of all the Courts are to be regulated by the decree of the Appellate Court, so that when a decree is modified in appeal, the proportion of the costs which follow such modification are to affect those of the lower Court, no matter how that Court may have awarded the costs.

27. An endorsement, in the following form, is to be added to the foot of each decree in appeal, in addition to that set forth in para. 5.

Appeal admitted on the of 18 , decided on the
of 18 ,

Total course, days

Do. in lower Court

Total

28. All exhibits must be numbered, and a list of all the exhibits attached to the case. This affords great facility for reference, and often prevents the abstraction of a paper without detection.

All Exhibits to be numbered.

29. As applications are often made to attach property previous to the case being decided, the particular attention of all Officers is directed to the Regulation as per margin; and they are desired to be very careful not to grant such applications, which are open to great abuse, unless they are sure that the course of justice will otherwise be frustrated.

Applications for Attachment before Judgment.

Sects. VII. and VIII. Reg. IV. of 1827.

30. With regard to applications for raising the attachments placed on property in execution of a decree, the attention of Officers is requested to the fact, that all parties having a right or interest in property attached in execution of a decree must, within 15 days from the date of the Proclamation required by Clause 2 Sec. LXVI. Reg. IV. A. D. 1827, urge their claims or undertake to file their suits, or else they will be debarred from the benefits of the Regulation, no further delay of the sale being allowable.

Suits to raise the Attachment.

31. When a sale is for any cause once postponed, it shall not again take place, until after a fresh notification of the time and place has been publicly made; but this second notice must not be in the form of a Proclamation, as in the first instance, but should merely be a notice recapitulating that the sale which had formerly been proclaimed to take place at such a time and place, but which had, for certain causes, been postponed, would, now that these obstructions were removed, take place on such a day. The day should be fixed at sufficient distance, as to time, to enable purchasers to get due notice of the auction; and this sale is not to be put off at the application of claimants to the property, whose time for objection or asserting their claims is past.

Sale once stayed, fresh Notice to be given.

32. In cases where no instalments are mentioned in the decree, the party aggrieved should make a petition to the Court who passed the original decree, requesting that instalments may be allowed; the reply to such petition being open to revision by the Superior Court, as in ordinary cases.

Instalments to be applied for to the Court executing the Decree.

FORM 1.

(As alluded to in paragraph 8.)

JOURNAL OF CIVIL SUIT.

Civil Court of the Kardar of Sukkur.

DOOLAMULL wulud VEROOMULL, Plaintiff,

versus

RAGOODASS wulud JUSSEERAM, Defendant.

Rs. 35-12-0.

(I.) *Plaint filed.*

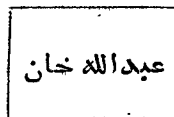
(II.) *Summons served on defendant for 22nd instant. Defendant appeared ;*
 20th January 1859. *took a copy of plaint ; ordered him to appear with*
 22nd January 1859, *his reply and witnesses on 24th instant ; and (III.)*
summoned Plaintiff to appear on that day with his

*witnesses.**Received Defendant's reply (IV.)**Both parties present : (IV.) took deposition of Plaintiff ; (VI.) ditto of Defendant. Defined issues to be as follows :—*

24th January 1859.

1. *Did Defendant repay Plaintiff ten Rupees through Pummunmull ?*2. *Should interest be charged at 24 per cent. as claimed ?**On 1st point examined witnesses produced by Defendant, (VII.) Pummunmull and (VIII.) Dassoomull ; and on behalf of Plaintiff, (IX.) Mahomed Shah.**On the 2nd point no evidence is required.**Passed decree (X.) in favour of Plaintiff, costs in proportion as per decree.*

(Signed) ABDOOLA KHAN,

Kardar.


24th January 1859.

Copy of decree given to Plaintiff on 25th, and to Defendant on 26th January.

(Signed) ABDOOLA KHAN,

Kardar.

FORM OF DECREE.



Court of the Kardar of Sukkur.
24th January 1859.

DOOLAMULL wulud VEROOMULL, Plaintiff,

versus

RAGOODASS wulud JUSSEERAM, Defendant.

Rs. 35-12-0.

The parties are present in Court.

Doolamull sues Ragoodass for the sum of Rupees 30, principal, on a note of hand passed by him, dated 3rd May 1858, corresponding with 7th Rumzan 1274, and Rs. 5-12-0 interest; total Rs. 35-12-0.

Forms,
 vide para. 8.

Ragoodass acknowledges the bond; but pleads having paid ten Rupees to Doolamull through Pummunnull, and objects to being charged interest at the rate of 24 per cent.

From the examination of Doolamull (No. VI.), it appears he denies receiving the ten Rupees, and urges the rate of interest as being general for such loans.

The issues are—

1. Did Ragoodass pay Doolamull the ten Rupees through Pummunnull?
2. Should interest be charged at 24 per cent.?

The Kardar is of opinion that Ragoodass did pay ten Rupees through Pummunnull, and that the interest should not be charged at 24 per cent., but at 9 per cent.

From the evidence of Pummunnull (No. VII.), it appears that he owed Ragoodass Rupees ten, and paid it at his request to Doolamull; he produced his book, and showed the entry under date. Dassoomull (No. VIII.), who was present when Ragoodass asked Pummunnull to pay it, so far confirms his testimony; while Mahomed Shah (No. IX.), who was called by Doolamull to testify that Pummunnull paid the ten Rupees on his own account, and not Ragoodass, entirely fails to do so. He says he saw Pummunnull pay ten Rupees to Doolamull, but cannot tell on what account.

With regard to the rate of interest, as none is mentioned in the bond, the Kardar awards the rate usually charged by merchants, &c., 9 per cent.

An award, therefore, is passed in favour of Doolamull for Rs. 20 principal, and Rs. 4-2-0 interest; total Rs. 24-2-0, with costs in proportion.

Statement of Costs.

To be paid by Doolamull on Rs.	11	10	0	Rs.	0	9	4	
„ „ Ragoodass on Rs.	24	2	0	„	1	3	7	
Total fees on	Rs.	35	12	0	Rs.	1	12	7

(Signed) **ABDOOLA KHAN,**
Kardar.

Original suit filed in the Court of the Kardar on the 20th of January 1859.

Original suit decided on the 24th of January 1859.

Total course, days 5.

FORM 2.

(As alluded to in paragraph 9.)

FORMS OF PLAINT.

In the Court of the of

I	son of	of the village of	Taleoka	do hereby claim
from	son of	of the village of	Taleoka	the sum of Ru-
pees	* as principal, and	Rupees	as interest, total	Rupees
due †	on a bond dated the	of	18	passed by son of

I file the original bond herewith.

(Signed)

Plaintiff.

* Or, as damages for injury sustained by my character and reputation, owing to the said son of having falsely and libellously stated that, &c.

† Or, due on a running account closed up to the _____ of 185____, a copy of which I hereto attach.

No. IV.

FEES TO CAZEES.

With the view of regulating the references which are frequently made in Judicial proceedings to the Cazée, and for providing remuneration for those Officers in such cases, the following rules are to be adopted in future :—

2. In any Civil suit, before whatever authority depending, when both parties are willing to refer to the Cazee, the case may be referred for his decision, which will be final, and without appeal.

3. Before the reference is made, both parties shall sign a formal acknowledgment that they are ready to abide by the :

See Form appended.

See Form appended. Caze's decision whatever it may be; and the authority before whom the suit is depending must satisfy himself, before countersigning this document, that both parties fully understand and are content to abide by the conditions of the reference.

4. The Cazee shall take such oral and other evidence as may be necessary, and he is empowered to examine witnesses or the parties to the suit on solemn affirmation, in the same way as other Judicial Officers. After hearing the case, he shall draw up a "Futwa" or D  cree, showing in detail the reasons for his decision, and defining exactly what are the results of his enquiry, so as to admit of the execution of his "Futwa" without further enquiry or reference.

5. No other record but this "Futwa" will be required. It should be drawn out in triplicate—a copy shall be given by the Cazee to both the Plaintiff and Defendant, and the third copy shall be transmitted to the Deputy Magistrate in charge of the District, who will duly record it, and cause it to be executed in precisely the same manner as the Decree of any Judicial Officer.

6. The Caz  e shall receive one-half of the Government fee in any case which he may decide under these rules: the amount shall be paid by order of the Deputy Magistrate, on receipt of the Cazee's Futwa.

7. Should either party be unwilling to refer to the Cazee, the case shall be decided by the ordinary tribunals.

8. It is to be understood that nothing in these rules is to prevent a reference to a Cazee upon a particular point of custom or Mahomedan Law; such references may be made as hitherto; but the Cazee's reply shall be considered merely as evidence in the case. Whenever a suit is referred for his decision, the rules herein laid down must be adopted.

Form of Deed mentioned in para. 3.

We, the undersigned, being respectively the Plaintiff and Defendant in
 suit No. _____ on the File of _____ now depending
 regarding _____ do hereby, of our own free will,
 consent to refer the said matter to the decision of _____
 Cazee of _____ by whose decision we will abide without
 appeal.

(Signed)

A. B., Defendant.

C. D., Plaintiff.

Given by the parties of their own free will before me.

(Signed) E. F., Depy. Magt.

Dated _____

A similar course is to be adopted when cases are referred, by consent of parties, to Shastrees for disposal.

When the Court requires opinions from Shastrees, on points of Hindoo law, as these Officers are not Government servants as Cazees are, a fee not exceeding one-fourth of the Government Fee may be disbursed to the Pundit giving the opinion.

No. V.

RULES REGARDING THE ADMISSION AND PRACTICE OF
VAKEELS IN THE CIVIL COURTS IN SIND.

1. Any Barrister or Attorney at Law may practise in any Court in Sind, subject however, to the rules regarding the language of the Court in which they appear.

2. Any person holding a Sunnud as Vakeel from the Sudder Dewanee Adawlut may practise in any Court in Sind without further examination, on producing a security bond as required by Rule No. 6.

3. Any person other than a Barrister or Attorney at Law, or Vakeel qualified as above, who shall be desirous of practising as a Vakeel in the Court of the Commissioner, or of any Magistrate, Judicial Deputy, or Deputy Magistrate in Sind shall, previously to so practising, be required to produce a Sunnud from the Commissioner in Sind, which will be granted after receiving a report of the applicant's qualifications from a Committee appointed as hereafter mentioned.

4. The Committee shall be composed of the—

1. Judicial Assistant to the Commissioner, or Magistrate of the Zillah in which the Committee assemble.
2. Judicial Deputy Magistrate of the Zillah.
3. And a Native Judicial Officer to be appointed by the Commissioner.

5. The Committee shall assemble yearly or oftener if necessary, in each Zillah, at such times as the Commissioner may appoint.

6. Each candidate for examination shall, 15 days previous to the examination, forward to the Judicial Deputy Magistrate, to be laid before the Committee, a certificate of his respectability signed by two house-holders, who shall also enter into a bond, according to the form hereto annexed, for the professional good conduct of the party in case of his obtaining a Sunnud.

7. The Committee, having satisfied themselves of the sufficiency of the certificate and bond, shall examine the candidate as to his knowledge of the course of civil procedure as laid down in the Regulations and Acts in force in the Courts of Sind.

8. The names of all persons found by the said Committee to be competent shall be reported by them to the Commissioner, who will thereupon issue to each successful candidate a Sunnud giving authority to practise in any of the Courts in the Province.

9. The fees of Vakeels shall be the same as in the Courts in the Bombay Presidency, but shall be enforced as part of the costs of the suit in the Courts of the Deputy Magistrate, Judicial Deputy Magistrate, or Magistrate, and Commissioner only. This rule shall not prevent any person from entering into

any private agreement with his Vakeel ; but such agreement, if in excess of the regulated fees, shall not be enforced as part of the costs of the suit.

10. Any Vakeel convicted of fraud or gross misconduct in his professional capacity will be liable to have his Sunnud suspended or cancelled by the Commissioner in Sind ; and he may be fined by that authority, the Magistrate, Judicial Deputy, or Deputy Magistrate of the Zillah to the extent of Rupees 200, recoverable from the securities in default of payment by the Vakeel.

11. Any such punishment shall not, however, protect the Vakeel from any civil action or criminal prosecution to which his conduct may otherwise render him liable.

12. Every Vakeel, previous to being heard in any case, shall present a Vakalutnama executed by his client, which shall be duly filed amongst the papers in the suit.

13. Any Vakeel punished under clause 10 of these rules may appeal to the Commissioner in Sind, whose decision will be final.

14. No Vakeel shall be at liberty, after having conducted the case of one party to a Suit, to undertake the case of the opposite party, even though it be in a different Court, and his original client declines his services.

The above Rules are applicable to Civil Courts only. By Regulation XIII. of 1827, Section XXXVIII., any person may appear as Vakeel on behalf of a prisoner in a Criminal Court.

Form of Security Bond, as required in paragraph 6.

Whereas A. B. [*insert name, religion, caste, profession, and residence*] has been called upon to furnish security for his good conduct as a Vakeel, therefore We [*insert names, religions, castes, professions, and residences*] do hereby become Sureties for his the said A. B.'s good conduct, and do jointly and severally bind ourselves to the Government in the sum of Rupees Two Hundred (200) to be levied on our lands, goods, or any other of our property whatsoever, moveable or immoveable, in the event of the said A. B. being convicted before any competent Court of fraud or gross neglect or other misconduct in his capacity of Vakeel, and not paying any fine which may be imposed upon him as a punishment for such offence.

Witness our hands this day of 1854.

C. D.

E. F.

Before me,

G. H.,

Judicial Deputy Magistrate.

No. VI.

RELIEF OF INSOLVENT DEBTORS.

The following Rules regarding prisoners confined for debt, and for the relief of insolvent debtors in Sind, are issued for the information and guidance of the Magistrates of Sind and their Deputies :—

1. From the date of this Circular no person shall be confined for debt in any Jail, except under an order signed by a Collector or Magistrate, or by a Deputy Collector or Deputy Magistrate, or by a Moonsiff.

2. Such an order will be in the form annexed, and the Officer in charge of the Jail shall be responsible for its execution, provided the information required under each head be clear and explicit ; and if there are any deficiencies therein, he shall return it for amendment, with the debtor, to the Officer by whom the debtor was committed.

3. When a debtor, against whom a decree has been given, is committed to prison at the instance of a creditor, the committing authority shall fix whatever monthly allowance he may think sufficient for the debtor's subsistence, not being less than one anna, nor more than four annas per diem, which shall be paid into the Court by the creditor, by monthly payments in advance, on or before the 1st of each month, the first payment being made on the date of imprisonment for such portion of the current month as remains unexpired.

4. A debtor in confinement will be released at any time on full payment of the amount which may have been decreed against him, or on the surrender of all property, or at the instance of the confining creditor, or on such creditor's omitting to pay the allowance as above directed for the space of 48 hours after it has become due, to commence from the closing of the Court on the day on which payment became due. The debtor will, moreover, be entitled to release under the Rules detailed below.

5. Sums disbursed by a plaintiff for the subsistence of a defendant in prison shall be added to the decree, and shall be recoverable from the debtor's property, under the ordinary rules ; but the defendant shall not be detained in custody, or arrested, on account of such disbursements.

6. In all cases when the debtor is discharged from confinement, notice of his discharge shall at once be given, by the Officer in charge of the Jail, to the committing authority.

7. When a prisoner has been confined for debt, whether to Government or any private individual, for a period of six months, the Officer in charge of the Jail shall forward him to the Magistrate of the Zillah, together with the Warrant on which he is detained.

8. The Magistrate shall then send for the proceedings in the case, and summon the creditor at whose instance the debtor is detained.

9. When the debtor is detained on account of a debt due to Government, the Magistrate shall require from the Officer by whom the debtor was committed his minute of proceedings in the case, the summing up of which should always be in English, and also a statement showing any reasons he may have to allege why the debtor should be further detained.

10. On receipt of such statement, or, where the creditor is a private individual, on appearance of the creditor, the Magistrate shall proceed, in the creditor's presence, and in open Court, to examine the debtor as to his means of paying the claim against him, and the Magistrate shall further examine any documents or witnesses bearing on the same subject, which either debtor or creditor may produce, or which he may himself call for as necessary to elucidate the case. After inquiry, the Warrant will be returned to the Officer in charge of the Jail, with the Magistrate's order endorsed thereon.

11. The Magistrate shall not examine into the merits of any claim. He shall merely satisfy himself that the order for committing the debtor to prison is definite, and within the limits assigned by the rules laid down, and that it is issued by competent authority, and shall inform the debtor that anything he may have to urge against such order must be stated in the way of appeal against the decree on which the order was consequent, which appeal must be regularly made to the Court of superior jurisdiction.

12. If the Magistrate is satisfied that the debtor has given up all his property, and that there was nothing fraudulent, nor wilfully careless which caused his inability to pay, he may make an order for his release, accompanied by such order as he may think fit for the payment of the debt, in whole or in part, from the property or income of the debtor.

13. The Magistrate may, in doubtful cases, defer granting an order to release for any period not exceeding (3) three years from the date of imprisonment; and he may further direct, under the following clause, additional imprisonment, not exceeding (3) three years.

14. If the Magistrate finds that the debtor has concealed or made away with his property, or that the cause of his inability to pay was in any way attributable to fraud or wilful carelessness on the debtor's part, he may commit such debtor to the Criminal Jail without hard labour, for any period not exceeding (3) three years. This imprisonment shall be ordered under a separate Warrant, and in this case the debtor's subsistence shall be paid by Government, the same as in the case of ordinary prisoners.

15. With the above mentioned exception, no debtor shall be confined in prison for debt for a longer period than (3) three years, and whenever such term of imprisonment shall amount to (3) three years, the Officer in charge of the Jail shall report the circumstance to the Magistrate, who shall thereupon make an order for his release, unless there be a Warrant for fraud under

Section 14. In failure of the Magistrate doing so, the case shall be reported by the Officer in charge of the Jail to his immediate superior, for the information of the Commissioner.

16. It shall rest with the Magistrate, after taking into consideration the circumstances which led to the debt being incurred, &c. whether an order shall be passed relieving the debtor's future property and income, wholly or in part, from any subsequent liability on account of the debt.

17. When more than one creditor appears against a debtor, the claims of all creditors shall be considered and disposed of simultaneously; and any imprisonment consequent thereon will be subject to the above limitation.

18. No person who has once been discharged shall be liable to be imprisoned a second time on account of the same debt.

19. Any insolvent debtor may, by Petition to a Magistrate, pray to have the above rules made applicable to himself.

20. Such Petition shall have appended to it a Schedule, stating the whole of the insolvent's liabilities, as far as they are known to the insolvent, and showing when and how they were incurred, with the names and residences of each of his creditors, specifying also his assets or other means of payment.

21. On receipt of such Petition and Schedule, the Magistrate shall cause the insolvent to verify the same on affirmation, and shall also cause reasonable notice to be given to each of the creditors to appear on a given day, which he shall appoint, for hearing the Petition. He shall also cause a Proclamation to be put up in his Court, and that of the Moonsiff or Kardar, calling on all creditors of the petitioning Insolvent to appear and prove their claims.

22. He shall then, on the day appointed, go over the Petition and Schedule in the presence of the insolvent and of his creditors, and shall correct such Schedule as far as the statement of both parties may enable him to do so.

23. The inquiry may be from time to time adjourned, to admit of reference to arbitration, or of inquiries into specified points; and may, at any time, be suspended for a given period, on the petition of either party, in order to admit of any disputed point being regularly tried by Civil Suits, in the ordinary manner; and the Court may grant the Insolvent protection from arrest during such periods.

24. Whenever the Magistrate is satisfied that the Insolvent's Schedule is as perfect as it is practicable to make it, he shall proceed to dispose of the case in the spirit of Clauses 12 to 18 of the above Rules.

25. In all such cases, the usual amount of fee payable in Civil Suits shall be paid to Government from any Insolvent's property, before any payment therefrom is made to his creditors.

26. It shall be competent to the Magistrate to delegate, in writing, to any one of his Deputies, any of the powers or duties devolving on the Magistrate under the above Rules.

27. Persons guilty of frivolous and vexatious applications shall be liable to fine under Regulation IV. of 1827, Sections 53 and 99.

28. Whenever the debtor is sent either to the Civil or Criminal Jail as a Fraudulent Bankrupt, his subsistence should be paid by the Government and not by the detaining creditor.

29. The friends of all Civil debtors may be allowed access to them at any time during the day, under such precautions for their safe custody as the Officer in charge of the Jail may consider necessary.

WARRANT.

To the OFFICER in CHARGE of the JAIL at

You are hereby required to receive charge of the undermentioned debtor, and dispose of him according to the decision, of which an Abstract is given below :—

NAME.	Residence.	Tribe or Caste.	Religion.	Age.	At whose suit confined.	Nature of	DEBT.			Date of Decree.	Cause of Com- mitment.	For what pe- riod to be con- fined.	REMARKS.
							Amount of		By what Court de- creed.				
							Rs.	a.					

Court of _____

at _____

This _____ of _____ 185

(Signed) A. B.,
Magistrate.

Filed No.

(Signed) C. D.,
Lieutenant of Police.

No. VII.

REGISTRATION OF DEEDS.

The following Rules are laid down regarding the Registration of Deeds in Sind :—

1. There shall be an office for the registry of deeds at the Kutcherry of all Kardars.

2. The Magistrate, or the Deputy Magistrate in charge of the District, shall be the Superintending Registrar of Deeds, and he shall have a Cazee in each Kardarate to assist him.

3. The Cazee shall be provided with an office in the Kardar's Dhera, or

other convenient place, where he shall conduct all his official duties, and keep all his official books. He shall use a seal, one inch in diameter, bearing the inscription in Sindhee and in English—"The Seal of the Cazee of ———."

4. The Cazee shall keep a Register in the form contained in Appendix A. Each leaf of the Register shall have the seal of the Magistrate, or the Deputy Magistrate, affixed to it, and shall be paged with its number in figures, and in writing; and the Superintending Registrar shall note in his own handwriting, on the first and last page of such book, the number of pages contained in it, and attest the note with his signature.

5. This Register shall be for the registry of all sunuds, deeds of sale, gift, devise, mortgage, or transfer of lands, of houses, of offices, or of other immoveable and moveable property; of such Decrees of Court as it may be desirable to register, and of awards of arbitrators; of all wills, contracts, bonds, and leases; deeds of marriage settlement, divorce, and adoption; of release or discharge of mortgages, or other encumbrances affecting the same; and in general of all other deeds, writings, and obligations, both for immoveable and moveable property situated within the Kardarate.

6. A double index to the Register shall be kept at the end of each volume, —one index referring to the names of all parties to deeds (Namwar), the other referring to the names of all towns or villages (Mouzawar or Dehwar) in which the property or other subject of the deed may be situated. With reference to the pages of the Register, *vide* Appendix B.

7. The deeds and writings presented for registry, whatever may be their dialect or character, shall be then accurately copied at full length into the Register, in the order in which they are presented, and the copies shall be carefully compared and attested by the Cazee.

8. The original deed or other writing, after being registered, shall be returned to the owner or person who presented it, who shall sign a receipt for it on the margin of the Book of Register, the Cazee having first endorsed upon the deed a certificate under his seal and signature, in the form contained in Appendix C.; such certificate to be held in all Courts of Justice as sufficient *prima facie* evidence of Registry.

9. The registration of all deeds of sale or mortgage of lands, houses, or other *immoveable* property, as also of all deeds of division among families (Fakuttees), shall be compulsory; *i.e.* no Government Officer or Court should receive or act in any way upon an unregistered bond of this nature.

10. All *divorces* shall be registered, and no other proof of divorce allowed by any Court or Government Officer except an authenticated copy of the registered deed.

11. The registration of all other documents may be optional; but in cases where registered and unregistered documents are produced together in Court, the former shall be acted on in preference to the latter, even although of more recent date.

12. In the case of all the documents mentioned in Rules 9 and 10, such registration shall be obligatory within 30 days after the passing of the deed ; and if it should not be presented until after 30 days, but within 60 days, double fees shall be levied, and so on, an additional rate of fee being levied for every additional 30 days which may elapse between the date of execution and that of the registration, until 180 days have expired ; after which no deed shall be registered without special permission of the Deputy Magistrate, who, before granting permission, shall satisfy himself, after careful inquiry as to the genuineness of the deed, of the absence of any fraudulent motive for non-registration, and the sufficiency of the reasons which may be assigned.

13. The fees for registration of all deeds and other writings shall be in accordance with the rates fixed in Appendix D.

14. The Cazee shall be authorised to levy all fees, and shall enter them in a " Day Book,"* which shall be regularly balanced at the close of each day upon which he may have received any fees. The whole of these fees shall be received by the Cazee when they do not exceed Rupees (15) fifteen per mensem. When the amount of fees in any year exceeds this rate, the Government is to be credited with half the annual surplus, and the remaining half shall go to the Cazee.

15. It appears to be a common practice in Sind, that when parties wish to draw up a deed, they go before the Cazee with their witnesses ; the Cazee draws up the deed, and also a duplicate copy of it, and obtains original signatures upon both. This practice might with benefit be encouraged, the duplicate being the one mentioned in this Circular, and would be made in the register, and bear original signatures upon it. This practice, though it may be encouraged, is not to be enforced as an imperative rule.

16. All Magistrates and Deputy Magistrates, as Superintending Registrars, when on their tours through their districts, are enjoined to examine the Registers and Books of Account of the Cazees, to listen to all complaints made against them, to make such inquiries and to pass such orders as may be necessary, and generally to exercise such a supervision over them as to ensure a correct, faithful, and uniform system of registration.

17. Upon a vacancy occurring, the Magistrate shall forward to the Commissioner the name of the person he recommends to succeed as Cazee, taking care to select the most competent, popular, and in other respects best qualified Cazee in the neighbourhood. On the nominee being approved, the Magistrate will issue to him a Sunud after the form in Appendix E.

* To be kept in the same form as a Kardar's Day Book.

APPENDIX A.

Form for the Register.

The Register of Deeds and Writings in the Kardarate of
in the Zillah for the year

<i>Deed of Sale.</i> By Sahib Khan Lugharee. To Hajee Hoossein, Borah. In Kardarate of In Village of House and 10 beegas of garden-land. Presented for } Date Registry .. }	Page fifty-four (54). [Copy of the Deed at full length.] A true copy. (Signed) By the Cazeer.
<i>Will.</i> Of Fatima Begum. In Kardarate of In Village of 50 Beegas of land with dwelling-house and tiled shed. Presented for } Date Registry.. }	Page seventy-two (72). [Copy of the Will at full length.] A true copy. (Signed) By the Cazeer.
<i>Deed of Partnership.</i> Trade, in Grain; Assoo Mull, and Haroo Mull. Presented for } Date Registry.. }	Page fourteen (14). [Copy of the Deed at full length.] A true copy. (Signed) By the Cazeer.
<i>Lease of House.</i> Belonging to Moorad Khan, Patan. In Kardarate of In Village of Presented for } Date Registry.. }	Page eighty-nine (89). [Copy of the Lease at full length.] A true copy. (Signed) By the Cazeer.

APPENDIX B.

Form of Indices to be kept at the end of each Volume of the Register.

1. *Index of Names of Parties to Deeds (Namwar).*

A. Adam Alli	Page 54
Assoo Mull	" 14
Alyar Jemedar	" 83
B. Bowanee Mull	" 5
Buchoo Meeah	" 83
C. Cassim Ally	" 73
Choota Sahib	" 85

[Two pages or more, as required, to be assigned to each letter of the Alphabet.]

2. *Index of Names of Towns or Villages (Mouzawar or Delwar).*

A. Abad	Page 7
Allyar ka Tanda	" 10
B. Bunna	" 57
Beegum ka Poora	" 101
C. Chinnee	" 53
D. Deejee	" 71
Dowlutpoor	" 74

APPENDIX C.

Form of Certificate of Registration.



" Registered on the _____ page of the _____ Volume of the Register
of Deeds and Writings kept for the Kardarate of _____ in the Zillah
of _____ for the year _____, having been presented at _____ o'clock
of the _____ day of _____ of the said year.

(Signed) By the Cazeer.

APPENDIX D.

A Table of Fees to be paid for the Registration of Deeds and Writings in the Register, for extracting Copies of Writings registered, and for search in the Register.

For registering all writings relating to immoveable and moveable property, of which the value is fixed and definite, not exceeding Rs. 25, a fee of 4 Annas.

Not exceeding	„	50	„	8	„
Ditto	„	75	„	12	„
Ditto	„	100	„	1	Rup.

and 8 Annas for every additional 50 Rupees, or fraction thereof, up to Rs. 500; after that, 4 Annas for every additional 100 Rupees.

For all other writings relating to property, of which the value is not fixed, such as Deeds of Marriage, Divorce, &c..... 8 Annas.

For every Farkuttee, or deed of settlement, either between partners in business or the members of a family..... 2 Rupees.

For every attested copy of any deed 8 Annas.

For every search in every two years' Registers 1 Rupee.

APPENDIX E.

Form of Sunud for a Caze.

I, Magistrate of believing you
son of inhabitant of to be a competent and well-
fitted person, do hereby appoint you to the office of Caze, in the Kardarate of
in the Zillah of . You will not be liable
to be removed from this your office while you discharge your duty with
zeal, integrity, and efficiency, under the Rules which now are or hereafter may
be in force.

(Signed) A. B.,
Magistrate.

Date, &c.

No. VIII.

ON THE SUBJECT OF MORTGAGES.

*Extract from Letter, No. 776, of 1st June 1859, to the address of
the Collector of Kurrachee.*

1. The question raised is, whether, the period set out in the mortgage bond being expired, the Syud can redeem his lands ?

2. This involves a consideration of the general principles of the law regarding mortgages. The bond in this case runs in the usual strict terms, viz. that if the money is not repaid by a certain date, then the lands become Vishundass' (the mortgagee's) of right.

3. Regulation V. of 1827, Section XV. Clause 3, shows that it was intended that a suit should be brought to foreclose a mortgage, and that no mortgage should be foreclosed without a judicial decree. This is in accordance with the law in England. The suit then, once filed, will be disposed of according to the law or equity applying to the question, and for this it is necessary to look to the principles which hold in the English Courts, no Indian Regulation or Act appearing to meet the point.

4. In the English Courts, cases of mortgage are looked upon as trusts ; in other words, the property mortgaged is considered as placed in trust with the mortgagee, and at any period he is liable to be called upon to give an account thereof.

5. According to the strict letter of a mortgage bond, it would often happen that a mortgagor might forfeit his inheritance, and compromise the rights of third parties, in consequence of accidental disabilities which it might be out of his power to foresee or prevent. To prevent such serious results of accident or carelessness, it has, since the earliest times, been the usage in England to follow the old Roman law, and, in spite of the strict terms of the mortgage bond, to afford the mortgagor what is called "the equity of redemption" at any period within "a reasonable time;" and thus allow him, on payment of the debt and of all equitable charges, to regain the property he had placed in mortgage.

6. This must therefore be the rule in cases of mortgage in this Province.

7. In the present case, it does not appear that either party has come into Court on the question of the foreclosure of the mortgage; if, therefore, they cannot come to terms between themselves, the Syud's (the mortgagor's) course is, in accordance with the Regulation above quoted, to tender payment; and if the offer be not accepted, to file a suit and compel Vishundass (the mortgagee) to surrender the land, on payment of the amount which may be found due to him.

PART III.

THE ADMINISTRATION OF CRIMINAL JUSTICE
IN SIND.

PART III.

THE ADMINISTRATION OF CRIMINAL JUSTICE IN SIND.

No. I.

CRIMINAL POWERS EXERCISED BY JUDICIAL OFFICERS IN SIND.

KARDARS.

These officers have powers 'simple' and 'extended.'

The Judicial powers exercised
by the various Magisterial Offi-
cers in Sind.

The 'simple powers' enable them to dispose of
the following cases:—

- 1st.—Simple thefts, where the value of the property stolen does not exceed Rupees fifty (50), and in the commission of which there has been no personal violence used, nor other aggravating circumstances.
- 2nd.—Abuse and slander.
- 3rd.—Assault, unattended by wounding or other aggravation.
- 4th.—Resistance to public officers in the discharge of their duty.
- 5th.—Use of false weights and measures.
- 6th.—Injury to property, either done wilfully or by stray cattle, or other effect of neglect, provided the damage does not exceed Rs. fifty (50).
- 7th.—Petty frauds, within the same limits.
- 8th.—Petty disputes between masters and servants.
- 9th.—Petty trespasses, by transgression of boundaries or diversion of watercourses, &c.

And to pass the following sentences:—

- 1st.—Fine to the extent of Rupees fifteen (15), which, in cases of theft, abuse, slander, injury to property, assault, fraud, or trespass, may be made over *wholly or in part* to the injured party.
- 2nd.—Imprisonment, with or without labour, for twenty (20) days.

Extended powers.

2. The extended powers authorise them to dispose of cases of the following nature :—

1st.—Theft.

2nd.—Cattle-stealing (unaggravated).

3rd.—Assault (unaggravated).

4th.—Resistance to public officers in the execution of their duty.

5th.—Use of false weights and measures.

6th.—Wilful injury to property.

7th.—Disputes between masters and servants.

8th.—Fraud (unaggravated).

9th.—Selling poisonous or noxious drugs without a licence.

10th.—All nuisances declared penal under Act XXVI. of 1850 and Act XXI. of 1841.

And to pass the following sentences :—

1st.—Imprisonment, with or without labour, for any period not exceeding four (4) months.

2nd.—Fine not exceeding Rupees one hundred (100).

3rd.—Flogging not exceeding twenty-five (25) stripes.

3. When entrusted with extended powers, their proceedings are, during the first year, subject to the confirmation of the Deputy Magistrate ; after that period, the confirmation

will be unnecessary, and the cases will be simply open to revision on the monthly returns or on appeal. (*Vide* page 59.)

4. Extra Assistant Magistrates have the same powers as a Deputy Magistrate exercises without confirmation ; *i. e.* up to one (1) year's imprisonment : but for the first year after

his appointment, all sentences in excess of four (4) months (or the extended powers of a Kardar, as laid down in paragraph 2) are subject to the confirmation of the Deputy Magistrate under whose orders the Extra Assistant may be placed.

5. The Deputy Magistrates have the full powers of a Magistrate in India, and also of an Assistant Session Judge

Deputy Magistrates.

Punishment not exceeding 1 year's imprisonment with labour, fine, flogging not exceeding 50 lashes, solitary confinement not exceeding 2 months, without confirmation ; imprisonment with labour exceeding 1 year and not exceeding 7, solitary confinement not exceeding 6 months, with confirmation of the Commissioner.

with extended powers : the former they exercise without confirmation (but their decisions are appealable to the Magistrate) ; while, under the latter, the decisions are subject to the confirmation of the Commissioner.

6. The Deputy Magistrates in charge of Adawluts (generally termed Judicial Deputy Magistrates), have, when specially

empowered, the same powers as the Magistrate, being, in fact, Joint Session Judges ; otherwise, their jurisdictions do not exceed those of Deputy Magistrates.

7. The Magistrates have the full powers of a Magistrate in India, and also of a Session Judge; they can apprehend and punish petty offenders, or dispose

Magistrates.
Sentences not exceeding 7 years' imprisonment, fine, flogging not exceeding 50 lashes, solitary confinement not exceeding 6 months, without confirmation; sentences exceeding these with the confirmation of the Commissioner, and, in capital cases and cases of transportation for life, of Government.

of the most serious cases, after committal to their Courts by the Deputy Magistrates. They dispose of all appeals from their Deputy's decisions in cases

not exceeding one (1) year's imprisonment.

8. The Commissioner confirms all sentences of Deputy Magistrates in excess of one (1) year's imprisonment, and of Magistrates in excess of seven (7) years' imprisonment.

Commissioner.
He settles all points of procedure, and, with the exception of sentences of death and transportation for life, which require the final confirmation of Government, he exercises the powers of the Sudder Foujdaree Adawlut.

9. The Commissioner has a Judicial Assistant, who prepares all cases for the Commissioner's orders, and hears all arguments in cases in appeal, and otherwise assists in the Judicial and Police Departments of the Province.

Judicial Assistant Commissioner.

No. II.

PROCEDURE IN CRIMINAL TRIALS.

The jurisdiction of the several grades of officers invested with criminal

Procedure to be adopted in Criminal trials. powers will be found at page 39, Cir. No. I.

2. Form A, hereto annexed, is to be strictly followed.

3. Printed blanks for charges and depositions are to be had at the printing establishments in Kurrachee, and such should be used as economising the time of the trying authority;

Blank forms are published.
and, when filled up with his own notes, will be the only English record required.

4. In all trials the charge should be fully and carefully interpreted to the prisoner; and where, as in the case of receiving stolen property, the *knowledge of the fact that it was stolen* constitutes the crime, or in the case of

The exact charge to be carefully explained to the prisoner.

rape, where the offence rests entirely on the fact of the connexion *having been against the woman's consent*, such should be clearly explained to the prisoner.

5. With regard to Form A, particular attention is desired to the following points. Property or weapons placed before the Court should be carefully described. Jewels or miscellaneous articles should each be numbered, *e. g.* :—

1. A necklace (kunti), gold.
2. A bangle (kungun), silver.
3. A nose-ring (nutoo), gold, with pearls, &c. &c.

And when any witness identifies an article, the Court should state the number which the article bears on the list; but it is not necessary that every small article should be enumerated in the English record. A careful specification of those which are essential to the case, and a reference, as regards the rest, to the separate list sent up by the committing authority (which should be among the proceedings) will suffice. Rules regarding the evidence for identifying persons or property will be found in Circular No. VIII. of this Part, page 52.

6. While the appointment of assessors is *always* to be made in cases of murder, both Deputy Magistrates as well as Magistrates may have recourse to such assistance in all serious cases where no special obstacle exists.

7. Care should be taken in the appointment of assessors to obtain the services of those whose knowledge, local or otherwise, is likely to be of the greatest use. At the same time, of course, any person likely to be biassed, either in favour of prisoner or prosecutor, should be avoided; and Officers of Police should not, as a general rule, be required to sit as assessors.

8. When a witness is called for the prosecution, his examination-in-chief should be conducted by the Court. At its conclusion the prisoner has the right to cross-examine; and when he has finished, the Court can, if it choose, ask such further questions as it may deem necessary (*'Re-examination'*). The converse holds good in the case of prisoner's witnesses, whose examination-in-chief is by the prisoner, the cross-examination by the Court, and the re-examination by the prisoner; but this latter must be confined to matters referred to in the cross-examination.

9. Whenever an Inquest report forms a portion of the preliminary proceedings, the Court is *first* to call in separately two (or more if necessary) of the jurors, and examine them as to whether the document received as the Inquest Report be genuine. The best method is to place the document in the witness' hand, ask him if he can recognise his signature or seal on it, and if he can,

then to read the report, and ask him if it is correct, and whether it contains a true account of the appearance of the corpse, and of the circumstances under which the deceased met with his death; and on receipt of his replies in the affirmative, the document may be recorded.

Jurors to be examined as to position of corpse, &c.

10. The same rule applies to confessions of prisoners, which should always be proved *before* being read and recorded. This is especially necessary when the trial takes place with assessors, as, if read, and then not proved, it is, of course, inadmissible; but the assessors having heard it, it is impossible to say how far they may be biassed thereby, although told to discard it from their thoughts. A confession should be recorded, if proved, for the prosecution.

Confession of prisoners.

11. The main points to ascertain in proving it are, whether the witnesses to the statement were present the *whole time* prisoner was making it; whether any force or other unfair means were used; and, also, whether they affixed their signatures to the statement at the prisoner's request. The same course is to be observed in proving the confirmation before a Deputy Magistrate, of a confession made before a Kardar, when the case is on trial before the Magistrate. Confessions before Police Officers being prohibited, are never to be noticed in any way, except by calling attention to the breach of orders, if the statement should have been taken in writing.

Confession how to be proved.

12. In cases where, although the prisoner pleads "Not Guilty," his only statement received from the committing authority is a virtual *confession*, which, having been proved as above required in paragraph 12, has been recorded for the prosecution, the Court shall, upon the conclusion of the case for the prosecution, call upon the prisoner to make any defence he may choose *vivâ voce*, be it in commutation of punishment or otherwise, and such must be recorded by the Court. Prisoner shall also be asked whether he wishes to call any witnesses.

Confessions to be proved and recorded for the prosecution, and prisoner to be called on for a defence.

13. At the conclusion of a witness' deposition, the Court, when it considers such a course necessary, should record any opinion it may have formed as to the manner in which the witness has deposed, whether particularly, clearly, or in a hesitating or other suspicious way.

Court to record its opinion as to the manner in which the witness deposed.

14. When it becomes necessary to adjourn a case, the presiding officer should enter such on his proceedings; and care should be taken that prisoner and property are carefully made over to the Police. And on the trial of the case being resumed, the date of the former adjournment should be mentioned, as well as the prisoner's re-appearance before the Court.

Adjournment of trials.

15. In summing up the facts of the case to the assessors, the Court should carefully avoid laying before them any but strictly legal evidence; and it should, as much as possible, point out the connecting links which complete the chain of proof.

16. In recording the finding of the Court, care should always be taken that the crime of which the prisoner is found guilty, should be set out at full length; and in passing sentence, the Act or Regulation by which such sentence is authorised should invariably be quoted.

17. It sometimes happens that the trying authority feels uncertain as to the exact weight to be attached to circumstances in mitigation of punishment: in such cases it is better to pass the extreme sentence, leaving it to the confirming authority to mitigate it if he thinks fit. The trying authority should state in his letter forwarding the proceedings, the circumstances pleaded in mitigation, and the reasons for his doubts as to the weight to be given to them.

18. In passing sentence in any case, the trying authority should be careful that any physical incapacity of the prisoner does not prevent the punishment being carried out. Cases have not unfrequently occurred, in which the labour awarded has been obviously beyond the convict's powers, and has been cancelled on the report of the officer in medical charge of the jail.

19. If, in addition to a period of imprisonment, further imprisonment be ordered in commutation of a fine, and the two periods combined, exceed the extreme amount the trying authority can award without confirmation, the case shall be sent for confirmation.

20. It is as well here to observe, that under an indictment for a major offence, a prisoner may be convicted of any minor crime contained in it; *ex. gra.* under an indictment for murder, a conviction for culpable homicide, or under an indictment for rape, a conviction for assault, either serious or trivial, may be arrived at. On a charge of robbery also, a conviction for concealment, aiding and abetting in the robbery, or for receiving stolen property, knowing it to be such, can be recorded.

21. When prisoners plead 'Guilty' to serious crimes, as assessors should not be appointed until *after* the prisoner's plea has been recorded, it follows that no assessors are required. By Regulation, as per margin, the confession of a prisoner before the trying Court suffices for conviction, if adhered to by the prisoner after hearing such portions of the preliminary proceedings read to him as the Court may consider necessary.

22. After receiving and recording a plea of 'Guilty,' therefore, the Magistrate, having caused to be read over to the prisoner the depositions of such witnesses given before the committing authority as he may consider show the facts of the case, and also the prisoner's confession, likewise taken before the committing authority (which, under these circumstances, *i. e., the prisoner pleading guilty*, need *not* be proved according to paragraph 12), shall then ask the prisoner whether he confirms his previous plea; and on receiving a reply in the affirmative, the Magistrate shall simply record that he finds the prisoner guilty upon his own confession, and shall pass sentence as usual. Such depositions as the Magistrate may have had read to the prisoner, *together with the prisoner's confession, shall form the evidence recorded in the English proceedings. No witness need be re-examined before the Magistrate, unless that officer, for special reasons, considers such a course necessary for the better elucidation of the facts of the case.

23. The numbers in the margins of the forms are intended to refer to similar numbers on the Sindhi record, and are placed for the sake of convenience in referring from one record to another. The Sindhi record should bear a similar number in English, as well as in the native character, to that on the English record.

24. In case of perjury on the part of any native witness, the native deposition would be the document on which he would be indicted, not the English. It is therefore necessary that the Court should sign each deposition taken in the native language, certifying that it was given on oath or solemn affirmation.

A convenient form is—

" Given on solemn affirmation (or oath) before me, this 10th day of March 1856.

" A. B.,
" Magistrate."

25. Hindoos and Mussulmen alone can be examined on solemn affirmation. Parsees and Christians (excepting certain sects) must be examined on oath.

Witnesses how sworn.

26. The proceedings in cases involving a sentence of death or transportation for life, must be copied clearly by a clerk, as they have to be forwarded to Government. In other cases, the record in the Deputy Magistrate's own handwriting is sufficient.

Proceedings in capital cases to be copied by a clerk.

27. Whenever sentences are passed, subject to confirmation, no portion of the punishment should be awarded, until the orders of the superior authority are received. The date of passing sentence is to be the date of commencement of the term of imprisonment awarded, notwithstanding the confirmation may not be given for some little time after.

Sentences subject to confirmation not to be carried out until confirmed.

28. Whenever the prisoner convicted is an inhabitant of a different Zillah from that in which he was tried, the trying authority should forward a copy of the warrant to the Lieutenant of Police of the Zillah of which the prisoner is a resident, for information and future guidance.

If Prisoner is an inhabitant of a different Zillah, the Lieutenant of Police of that Zillah is to have a copy of the warrant.

29. It often occurs that prisoners, when convicted of embezzlement or other offences, are sentenced to be 'incapacitated from holding any Government employment hereafter.' Such order should not form part of the sentence, the dismissal of the offender being a question that should be left to the executive authority.

Dismissal from service to form no portion of a sentence.

FORM A.

Tarooshah, 15th of September 1858.

At a Criminal Court held before *Captain R. Cowpar*, Deputy Magistrate of *Nowshera*.

The Deputy Magistrate proceeds with the trial of the case No. 58 of the General Calendar for 1858.

No.	PRISONERS.									From what Officer received.
	Name.	Father's Name.	Age in Years.	Religion.	Caste or Tribe.	Occupation.	Village.	Talooka.	Zillah.	
1	<i>Futeh Mahomed.</i>	<i>Abdool Raza.</i>	21	<i>Mahomedan</i>	<i>Kashleece</i>	<i>Labourer</i>	<i>Tarooshah</i>	<i>Sahitee</i>	<i>Hyderabad</i>	{ <i>Mahomed Kismutghar, Mooktyarkar of Sahitee.</i>
2	<i>Ahmed Khan.</i>	<i>Belooch Khan.</i>	18	"	"	"	"	"	"	

CHARGE.

The prisoners are charged, under Regulation XIV. of 1827, Section XXXVII. Clause 3, with *robbery with force, by night*; in having, on the 7th September 1858, corresponding with 1st Suffer A.H. 1275, in the village of

Tarooshah aforesaid, broken into the house of Paroo Bunyah, and stolen therefrom clothes to the value of Twenty (20) Rupees, 1 gold armet value 30 Rupees, and ready cash, in silver and copper, Rs. 10-8-6

How say you, prisoner, are you Guilty or Not Guilty?

The prisoners plead *Not Guilty*.

A bundle, containing 1 cloth coat and other clothes, as per list in Sindhi proceedings of Mooktyarkhar, 1 gold armet, and Rs. 5-4-0 in cash, are produced in Court.

The Deputy Magistrate proceeds to record the evidence for the prosecution.

No. I.

The deposition of *Paroo*, given on solemn affirmation, after having been duly cautioned :—

“My name is *Paroo*; my father's name is *Pummun*, my age is about 30 years; I am by religion a *Hindoo*, by caste a *Bunyah*, by occupation a *Trader*. I reside at the village of *Tarooshah*, Talooka *Sahitee*.

“About 15 days ago, I went to sleep at night as usual, on the platform in front of my shop, having locked the door. On my awaking in the morning, I found on opening the front door, that a hole had been made in the back wall large enough for a man to enter through. On examining the premises, I found that a bundle of clothes, containing a cloth angrika (coat) and other things, and a gold armet, had been taken away; also that a box had been broken into, and Rs. 10-8-6 in cash stolen therefrom. I informed the Police, who came and examined the premises. They found the ‘pugs’ of two persons, which they took up and traced to the house where prisoners live. I accompanied them. On searching the house a spot appeared freshly cow-dunged; and on digging there, the property now produced before the Court was found. I recognise all the articles as my own property. Prisoners were apprehended in the house.”

Prisoners having no question to ask,

Witness withdraws.

The deposition of *Mahomed Khan*, given on solemn affirmation, after having been duly cautioned :—

No. II.

“My name is *Mahomed Khan*, my father's name is *Ahmed Khan*, my age is about 40 years; I am by religion a *Mahomedan*, by tribe *Sheik*, by occupation a *Duffedar of Police*. I reside at the village of *Tarooshah*, Talooka *Sahitee*, where I am on duty.

“About 14 or 15 days ago the last witness, *Paroo*, came to the Chowkee about 6 in the morning, and reported that his house had been robbed. I took Subool, Puggy, with me and went there; we found a hole in the back wall, and in the owner's room a box, the hinges of which had been forced. We found the ‘pugs’ of two persons, which we took up and traced direct to the house or hut where prisoners reside.”

Witness then corroborates the last witness as to the finding of the property and apprehension of the prisoners.

Cross-examined by Prisoner No. 1.—Your feet were naked when you committed the robbery; but on going outside you put on your shoes, and those shoes we found on your feet when you were seized.

There being no other questions to ask,

Witness withdraws.

The deposition of *Subool*, given on solemn affirmation, after having been duly cautioned:—

No. III.

“My name is Subool, my father’s name is Mahomed, my age is about 30 years; I am by religion a Mahomedan, by tribe a Kurmattee, by occupation a Government Puggy. I reside at the village of Turooshah, Talooka Sahitee, where I am on duty.”

This witness corroborates the evidence of the Duffedar, No. II. He states, on examining the foot-prints in the house of prosecutor, they were those of naked feet, but, on proceeding outside, the thieves resumed their shoes; the shoes now on the prisoners’ feet are those the prints of which he traced. Witness states he took both prisoners to the house of prosecutor and compared their naked foot-steps, which coincided.

Cross-examined by Prisoner No. 1.—I have been a puggy from my childhood. Prisoner has no other question.

The Deputy Magistrate proceeds to test the witness’ capability as a ‘Puggy.’ A space in front of the office is cleared, and, in the absence of the witness, the prisoners with half-a-dozen other persons are walked up and down. On witness being sent for, he immediately pointed out the prisoners’ foot-marks.

Witness withdraws.

The case for the prosecution is closed. That for the defence commences.

Read and recorded:—

No. IV.

Statement of Prisoner No. 1, Futteh Mahomed wullud Abdool Raza, taken before the Mooktyarkar of Sahitee, on the 8th of September 1858, to the effect that he denies the robbery, and says the police are his enemies; that they buried the property in his house in order to get him into trouble.

Read and recorded:—

No. V.

Statement of Prisoner No. 2, Ahmed Khan wullud Belooch Khan, taken before the Mooktyarkar of Sahitee, on the 8th of September 1858. (To the same effect as that of Prisoner No. 1 (No. IV.))

The prisoners have nothing further to urge, nor any witnesses to call.

The case is closed, and the Deputy Magistrate proceeds to record his finding.

The prisoners are charged with robbery with force, by night. The evidence is clear; the house had been broken into through the wall; foot-prints having

been found in the house, were traced to the prisoners' homes, where the property was found concealed.

The Deputy Magistrate therefore records his finding, that the prisoners, *Futteh Mahomed and Ahmed Khan*, are guilty of robbery, with force, by night, in having, on the 1st September 1858, corresponding with 1st Suffer 1275, in the village of *Tarooshah*, *Tulooka Sahitee*, *Zillah Hyderabad*, broken into the house of *Paroo Bnyah*, and stolen therefrom clothes, a jewel, and ready cash, to the value of Rs. 60-8-6.

Read and recorded:—

Extracts from the records of the Deputy Magistrate's Office in cases No. 15 of 1855 and No. 26 of 1857, showing that prisoners of similar names and tribes were convicted of robberies in both instances, and were sentenced, on the first occasion to six (6) months', and on the latter to one (1) year's imprisonment with labour.

The deposition of *Sultan Khan*, given on solemn affirmation, after having been duly cautioned:—

No. VIII.

"My name is *Sultan Khan*, my father's name is *Ahmed Khan*, my age is about 40 years; I am by religion a *Mahomedan*, by tribe a *Brahoe*, by occupation a *Havildar* of the *Rural Police*, and *Jailor* at the *Tarooshah Jail*.

"I know the prisoners at the bar; they have both been in *Tarooshah Jail*, on two occasions; the cases in which they were prisoners are numbered No. 15 of 1855 and No. 26 of 1857."

Prisoners have no question to ask,

Witness withdraws.

Sentence, under Regulation XIV. of 1827, Section XXVII. Clauses 1 and 3:—

Prisoners at the bar—You have been convicted of robbery with force, by night; the sentence of the Court upon you is, that you and each of you be imprisoned and kept to labour in the Jail at *Hydrabad* for three (3) years.

This sentence is subject to the confirmation of the Commissioner in *Sind*, to whom this case will be forwarded through the Magistrate of *Hydrabad*, with memorandum No. 183 of 1858.

The property is made over to the prosecutor.

Prisoners are removed in custody of the Police, with warrants addressed to the Lieutenant of *Hydrabad Police* for their safe custody, pending further orders.

Nos. IX. and X.

The Court adjourns.

(Signed) R. COWPAR, Captain,
Deputy Magistrate.

No. III.

MEDICAL EVIDENCE.

When, in conducting any criminal case, it becomes necessary to examine a medical officer on professional points relating to the matter under inquiry, his evidence should be taken on oath as that of other witnesses, but recorded on a separate sheet of paper, with the signature of the Officer conducting the inquiry attached to it.

The statement of a medical officer to be taken on oath.

No. IV.

TRACKERS OR PUGGIES.

In all cases in which the testimony of trackers, as to the identity of foot-marks, is the principal evidence in any case which may be under investigation, the skill of the trackers should be tested by the trying authority, if he thinks the evidence requires such corroboration, and the result recorded on the proceedings. (*Vide* page 48, deposition No. III.)

Skill of trackers to be tested by the trying authority.

No. V.

ACQUITTALS.

By Regulation XIV. of 1827, Section I. Clause 9, a person once 'convicted' or 'acquitted' cannot again be tried for the same offence, though a person 'discharged' may be.

Acquittals by Deputy Magistrates.

2. It is necessary to the power of acquittal, that the trying authority should be competent to pass the adequate sentence awarded by the law for the particular crime with which the prisoner is charged.

3. In cases, therefore, where, if a conviction had taken place, the punishment awarded would have been subject to confirmation, the Deputy Magistrate cannot 'acquit' the prisoner, but can simply record that *prisoner is discharged for want of proof*. This leaves the prisoner liable to be again apprehended, should additional evidence be forthcoming at a future period.

4. If, however, the case be one, the adequate punishment for which would, if a conviction were recorded, be within the Deputy Magistrate's powers, independent of confirmation, in the event of the evidence not being sufficient, an 'acquittal' should be recorded, when further proceedings against the prisoner on that charge would be illegal.

No. VI.

SENTENCES TO BE REPORTED TO THE POLICE.

To obviate the inconvenience of the Police Officers not receiving reports of criminal cases decided by Magistrates and their European and Native Subordinates, all Magisterial Officers should, as each criminal case is decided, send to the Lieutenant of Police of the District, in which the offence was committed, a return made out after the accompanying form.

2. These forms, as well as warrants, should be kept printed or lithographed; and as each case is decided, the form should be filled up at once and signed by the Magisterial Officer. The warrants should be sent with the prisoner, and the return of decision by post.

Form of Criminal Reports.

No. of Case.	Name, caste, occupation, age, and residence of prisoner.	Charge.	Offence when committed and residence of complainant.	Date of offence and when apprehended.	Date of trial.	Amount of property recovered.	By whom tried and sentenced.	Remarks.

Dated of 185 . (Signed) A.B.,
Deputy Magistrate's Office. Deputy Magistrate.

No. VII.

PRISONERS ON APPREHENSION TO BE ALLOWED TO GIVE BAIL.

Except in cases of murder and robbery, or other offences of a very serious nature, the accused parties should be admitted to bail, unless there is good reason to suppose that their safe custody can only be secured by confining them in Jail; and when this step is considered

Bail to be accepted when offered for accused parties in all cases except murder and robbery or other offence of a serious nature.

necessary, it must be specially reported to the Magisterial authority of the District.

2. In determining the amount of security to be required, the position in life of the accused parties should be duly taken into consideration.

No. VIII.

IDENTIFICATION OF PROPERTY AND PERSONS.

Rules for the identification of persons and property.

A very important point of evidence is the identification of property and of persons.

Property not to be identified in the lump.

2. When a quantity of stolen property has been recovered, and is produced in Court, it is not sufficient that the owner of such property should identify it in the lump and say, "I recognise all this as mine."

3. The trying authority should mentally fix on some article of peculiar manufacture or fabric, as an ornament or piece of jewellery, or cloth, with any particular marks or pattern upon it; and without letting the witness know which piece the questions refer to, he should be made to describe its peculiarities.

One article to be mentally chosen by the Court, and the owner questioned regarding it.

4. If, on the other hand, the stolen property be of such ordinary description as to have no peculiarities, a few similar articles should be placed with the stolen ones, and then the witness should be cautioned, and afterwards asked to identify which are his property.

Or similar articles to be placed in juxta-position.

5. In the same way, when there is any doubt about the identification of prisoners, several persons should be brought into Court, and the witness called upon to point out which of them he identifies.

A similar course to be adopted with prisoners.

6. The trying authority has opportunities and advantages for the right identification of stolen property and of prisoners, which no reviewing authority can possibly have. So much depends upon the manner in which a witness gives his evidence, on his readiness, and the certainty with which he identifies anything, and on the opportunity the trying authority has of cross-questioning, that he can easily satisfy himself whether the witness speaks the truth.

The trying authority is answerable for the proper identification.

7. Whenever the trying authority records on his proceedings that any particular article of stolen property, or any prisoner, has been clearly identified, the reviewing authority is obliged to receive such identification as a proved fact.

8. The Police authorities should caution Policemen not to allow stolen

Stolen property not to be made over by one Policeman to another.

property, recovered by them, to pass through many hands before it reaches the trying authority. It sometimes happens, that a Policeman who is asked by the Magistrate where he got the property he produces in Court, refers to some second party, who is not in Court, but who told him he got it from a third, who said he found it in the prisoner's house : such second or third hand evidence is, of course, quite worthless.

9. The proper method is, that the Policeman who found the property

The manner in which the Police should give evidence as to property,

should be able to state the exact facts when and where the property was found, and that the property had been in his custody ever since ; that he had produced it before the Kardar for examination, and now produces it before the Court ; and that he should be able to swear that the articles are the same that he found under the circumstances before deposed to.

10. A little method in instructing Policemen in matters of this kind will often enable one man to give more valuable evidence and to identify property more satisfactorily, than two or three could under a less regulated system. It will very materially shorten trials and abridge the labour of the trying officer, besides obviating doubts which now very often exist.

11. Much of what has been stated above regarding the identification of

The same principle applies to trackers.

property; applies equally to the identification of persons, and the same principles will apply to the identification of foot-marks.

12. Identity of foot-marks is often evidence of the strongest and most conclusive description, but its weight peculiarly depends on the manner in which the evidence is taken and tested.

13. The very simple plan of making the deposing tracker select the marks

How trackers are to be tested.

of the suspected person from among a number is always capable of being applied, and affords an excellent test of the degree of dependence which may be placed on the testimony. (*Vide* page 48, deposition No. III.)

No. IX.

CORPORAL PUNISHMENT.

Instances have occurred in which the punishment of flogging has

Corporal punishment restricted to 25 stripes at one and the same time.

been administered so as to cause permanent injury to the criminal, the attention of Officers is called to Regulation XIV. Section VIII. Clause 1, which provides that no Officer shall

award more than twenty-five stripes to be administered at one and the same time, and this will be found amply sufficient, if the flogging be properly inflicted.

2. It is not generally advisable to add flogging to sentences for lengthened periods of imprisonment.

3. The *spirit* of the instructions issued by the late Governor upon this subject might with advantage be adhered to ; and for this purpose copies of abstracts from the Civil orders of Sir Charles Napier, as quoted in the margin, are appended.

Sir C. Napier's directions,

1. To Collectors and Magistrates in Sind, dated 23rd May 1846,
2. Paragraph 16 of Rules proposed for Criminal Justice in 1846,

to be followed in spirit.

4. The flogging should never be administered unless in the presence of the European Officer awarding the punishment, or of an Apothecary, or other Medical Officer.

The apothecary, medical or trying authority always to be present at floggings.

1846.—*Circular.*

To the COLLECTORS and MAGISTRATES in SIND.

Dated 23rd May 1846.

No Bazar Master or Magistrate is to punish by flogging, except for the following crimes :—

Theft, destruction of property, and drunkenness ; nor are the aforesaid crimes to be punished by flogging, without the fullest inquiry before the Magistrate, when all parties, accuser and accused, are to be *present*, and Bazar Masters are to have the sanction in writing of the Officer Commanding the station, whose signature must be affixed ; nor upon any pretence is the punishment inflicted by any Magistrate or Bazar Master to exceed *two dozen lashes*, which are to be inflicted with a cat-o'-nine tails, the same as those used in Regiments of the Line, and with no other weapon of punishment.

If, in the opinion of the Bazar Master, any culprit deserves a heavier punishment, the said Bazar Master is to apply for a Court Martial ; and if the Commanding Officer thinks that one is necessary, he will order it to assemble.

The Bazar Masters at every station are to make a weekly report of all punishments inflicted to the Commanding Officer, who is to report, through the Deputy Judge Advocate General, to the Major General Commanding the Forces, by forwarding the weekly reports with any observations that he may judge it necessary to make ; otherwise, this Officer is only required to transmit the report.

As regards Civil Magistrates, the rules have been already clearly laid down for their mode of proceeding where a punishment is required which exceeds two dozen lashes.

Paragraph 16 of Rules proposed for Criminal Justice in 1846.

16. Magistrates to avoid the infliction of corporal punishment, except in cases where the offenders are known as confirmed bad characters.

No. X.

DELAYS IN TRIALS.

All Magisterial Officers should bear in mind that the trial of criminal cases, and the disposal of the Police and Magisterial business generally, should take precedence of every other kind of business which may not be of an emergent description.

Police and Magisterial business to take precedence of other business not of an emergent description.

2. The remark "delay caused by the witnesses not being forthcoming" is very frequently appended to explain delay in the disposal of cases. Of course cases will occur where it is necessary to postpone a trial or call for witnesses

All witnesses should be sent up with the case.

who were not summoned at first, and the necessity for summoning whom could not be foreseen. But such cases must always be exceptional; and, as a general rule, there can be no difficulty in sending all necessary witnesses up with a case, and disposing of it as soon as it is received without more than a few hours delay.

Extract (paragraph 33) of a despatch from the Honorable the Court of Directors, dated 1st July 1857, noticing a case of delay in disposal of a criminal case, is appended:—

Court's despatch on the subject.

"Holding the principle that every Magisterial and Police Officer is personally responsible in regard to the length of time during which every prisoner in his custody or in confinement under his orders is detained under examination, we think that you have dealt leniently with the officers to whom the delay in this case is attributable."

No. XI.

CASES OF RAPE.

In cases of rape a plea of "Guilty" is often entered, when it is clear from the prisoner's statement, that he only meant to admit having had intercourse with the woman with her free will and consent.

Instructions for the trial of cases of Rape.

2. In requiring a prisoner to plead on this charge, therefore, care should be taken to explain to him that he is to be tried for having had such intercourse *forcibly* and *against the woman's will*.

Prisoner to be made to understand that the connection charged was against the woman's consent.

3. From its nature, the charge of rape is one of those in which it is very difficult to ascertain the exact truth. For this cause the trial of such cases should never be left to inexperienced Officers.

Rape difficult of proof.

4. The ordinary text books regarding evidence state the points which it is most material should be proved where the woman is of full age ; unless the circumstances are very peculiar, or there is great disparity of strength, there will generally be evidence of considerable violence having been used. Where there is none, minute and particular inquiry should be made from the woman, as to the place, dress, and position of both parties both before and during the assault ; and from any passers-by, as to the distance, direction, &c., when their notice was attracted to the parties.

Particular points to be attended to.

5. This is particularly necessary when there is no evidence of considerable violence, in order to disprove the *prima facie* probability in such a case, that the woman was a consenting party, and only called out when she saw persons approaching.

Especially when no evidence of considerable violence is forthcoming.

6. Statements of prisoners that they have had previous intimacy with the prosecutrix should be very carefully tested.

Former intimacy when pleaded to be carefully tested.

7. Persons convicted of rape are often sentenced to very inadequate punishment, probably from the Court thinking it not unlikely that the woman was a consenting party. Where there is good reason apparent for such belief, it is better to acquit the prisoner of rape, and punish him under either of the enactments noted in the margin, according as the woman was married or unmarried.

Severe sentences to be passed.
Act. II. of 1845, Regulation
XIV. of 1827, Section I. Clause 7.

Vide Printed cases of the Sudder Foudaree Adawlut, vol. 1 of April 1854.

8. Where the offence of rape, or violent assault with intent to commit it, is clearly proved, the punishment should be severe.

No. XII.

PERJURY.

Prisoners charged with perjury must not be tried by the Officer before whom the perjury was alleged to have been committed. (*Vide* Regulation XIV. of 1827, Section XVI. Clause 3rd.)

The Officer before whom the perjury is committed should not try the offender.

2. The same principle should be acted upon, as far as possible, in cases of uttering forged documents, officers refraining from trying such cases when the act of uttering the suspected document was committed before themselves in the course of other judicial proceedings.

Same principle to be adopted in cases of uttering forged documents.

3. Cases have occurred in which the accused was charged with perjury in having deposed to "a certain effect," and it has been found on the trial, that the accused did not state that which was so imputed to him. Officers are therefore directed, when cases of perjury come before them for trial, to be careful that the very words which the accused is said to have uttered, and the falsehood of which is supposed to constitute the perjury, are set forth in the charge *verbatim*.

The exact words alleged to have been falsely sworn in a charge of perjury to be particularised.

No. XIII.

ADULTERY.

Instructions regarding cases of Adultery and attempt to commit that crime.

Husband must prosecute.

No charge of adultery can be entertained unless preferred by the husband of the accused adulteress; and this should always be noted in the Criminal Returns.

2. In sentencing the adulterer and adulteress, the terms of imprisonment should be so arranged as to allow of the latter being released from jail at least fourteen days before the former; the husband, then, if he wishes, has an opportunity of removing his wife out of the way of further temptation.

Adulterer's sentence to be longer than that of the adulteress.

3. Attempt at adultery is not a punishable offence, as the ground for the punishment of the adulterer, viz. the injury done to the husband cannot be said to exist unless the crime has been accomplished.

Attempts at adultery not punishable.

4. Should any husband complain that he fears an attempt on his wife's chastity, the suspected party might be required to give security under Regulation XII. of 1827.

But security may be demanded.

5. Or the case might come under the Local Proclamation regarding persons found loitering about and unable to give a satisfactory account of themselves,

Local Rules.

No. XIV.

WIVES REFUSING TO LIVE WITH THEIR HUSBANDS.

It is difficult to lay down a general rule on the subject of wives refusing to live with their husbands. The religious law of the parties, however, by which such cases are decided, is quite distinct, viz. that the Government

Cases of wives refusing to live with their husbands how to be treated.

must imprison a woman who will not live with her husband. The best course, therefore to adopt would appear to be as follows:—

Upon the husband applying for assistance to the Magistrate, this officer should, if he does not consider there is any fault on the man's side, and if persuasion fail, send the woman to jail for a period not exceeding three months. . During this period she may be brought up occasionally before the Magistrate to see if she alter her mind, when, should she agree to return to her husband, she may, at any time, be made over to him, security being taken from the man, if she wishes it, that she will not be ill-used. At the expiration of three months, if she remain obdurate, she must be discharged, and the husband told that it is for him to decide whether he will divorce her or not, as all legal punishment has failed to induce her to live with him.

3. When a woman urges ill-treatment by her husband, or neglect to provide her with the necessaries of life, or to perform the duties of a husband, as the cause of running away, and proves her assertion, she should not be forced to return; the Magistrate's duty then is to advise the parties to make up their quarrel.

If the woman pleads ill-treatment she cannot be forced to return.

4. It is well, however, that Magistrates should interfere as little as they possibly can; such cases are best left to the friends of parties, or to punchayets, goperoos, or cazees, the Magistrate only taking care that no illegal violence is permitted.

But Magistrates should interfere as little as possible in such cases.

No. XV.

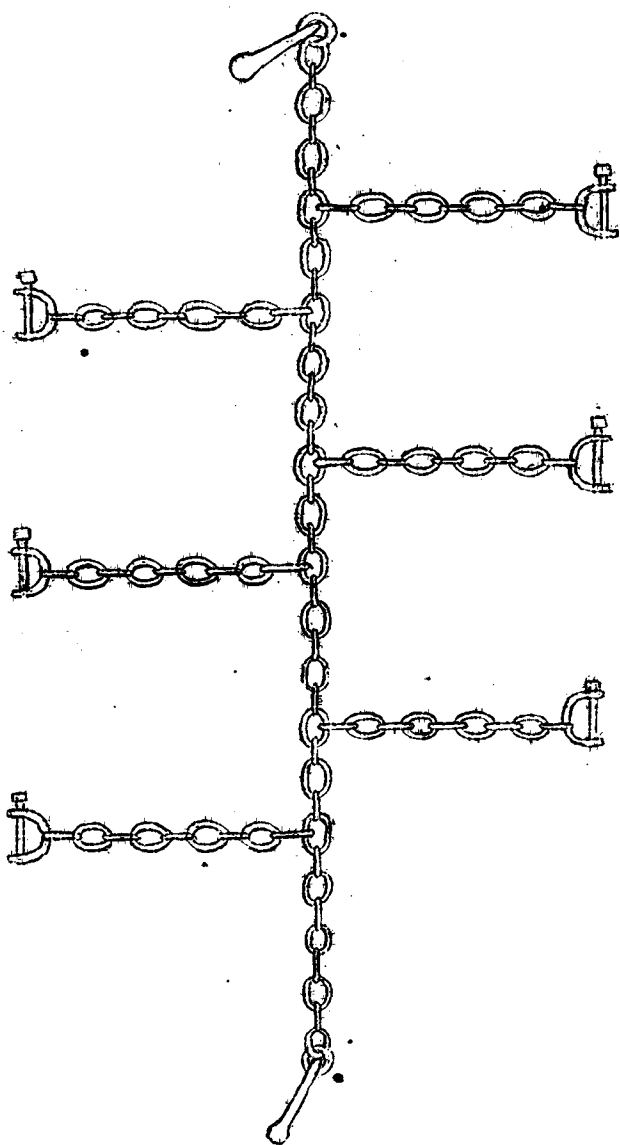
STOCKS.

As a general rule, stocks should not be used for untried prisoners.

2. The course to be adopted in the case of untried prisoners is—1st, in every case that security for appearance can be given, it should be taken. In this country, in the majority of cases, this order could be carried out with little difficulty, and the necessity of seeing it implicitly obeyed is of the utmost importance.

3. Should, however, cases occur where security cannot be procured, handcuffs, attached to a chain, should be adopted where there are no proper places of confinement, or when the heat of the weather obliges the prisoners and their guards to sleep in the open air; handcuffs made on the English handcuff plan, opening and shutting by a key, should each be attached by a chain two

Prisoners on the march to be attached to a chain at night.



feet long to about every second foot of a long chain sufficient to hold six prisoners. At night, one foot of each prisoner should be manacled, and the prisoners be made to lie three on each side of the chain, feet to feet. The sentry to be placed at one of the ends, both of which should be pegged into the ground [*vide sketch opposite*].- The prisoners so manacled could hardly move without the attention of the sentry being attracted by the jingling of the chain.

4. Now that lock-up chowkees have been generally provided, stocks can rarely be required; still cases may occur where

If necessity compels the use of stocks a report to be made to the Deputy Magistrate.

they would be absolutely necessary, and therefore a certain degree of latitude must be allowed the

Police in this point. But while the stocks may be made use of on occasions when absolutely necessary, such cases should always be reported to the Deputy Magistrate to whom the prisoners are being forwarded, and every precaution should be taken to prevent the stocks being used excepting on such occasions.

5. When cases arise in which it is proved that the Police have unnecessarily made use of them, very serious notice should be taken of the breach of orders.

Police will be severely punished for non-attention to this order.

be taken of the breach of orders.

No. XVI.

EXTENDED POWERS TO KARDARS.

Extended powers for Kardars (*vide page 40*).

Theft.
Cattle stealing (unaggravated).
Assault ditto.
Resistance to public Officers in the execution of their duty.
Use of false weights and measures.
Wilful injury to property.
Disputes between masters and servants.
Frauds (unaggravated).
Selling poisonous or noxious drugs without a licence.
Selling liquor without a licence.
All nuisances declared penal under Act XXVI. of 1850, and Act XXI. of 1841.

The names of any Kardars or Foudars considered by the Magistrate qualified for the exercise of increased powers of criminal jurisdiction, should be submitted to the Commissioner, and on their being specially empowered by him, they will be authorised to investigate and decide all cases as per margin.

2. In investigating cases under these rules, the Kardar or Foudar shall be empowered to record his finding and pass sentence upon convicted prisoners.

3. The sentences awardable under this Circular to be—

1st.—Imprisonment, with or without labour, for any period not exceeding four months.

2nd.—Fine not exceeding 100 Rupees.

3rd.—Flogging not exceeding 25 stripes.

Sentences.

4. For the first twelve months, during which the Kardar will exercise the extended powers, no portion of any sentence is to be carried into execution until it has received the confirmation of the Deputy Magistrate; but after that period, the decisions shall only be open

For the first year, the confirmation of the Deputy Magistrate is required.

to revision on the monthly returns or by appeal.

5. Upon a conviction and sentence subject to confirmation being recorded by the Kardar, he shall forward the prisoner within 24 hours to the Deputy Magistrate, together with his proceedings, and no portion of the sentence shall be carried into execution until confirmed by the Deputy Magistrate.

When confirmation necessary, case with prisoner to be sent within 24 hours.

6. The proceedings of Kardars will be kept in Sindhi, according to the forms and rules prescribed for Deputy Magistrates.

Record to be in Sindhi.

7. The Deputy Magistrate, when he receives a prisoner from a Kardar with the proceedings in his case, shall have the prisoner at once brought before him; and there, in his presence, read over the proceedings of the Kardar, consider the evidence recorded with the prisoner's defence, and confirm, amend, or annul the conviction or sentence, as may appear to him just and requisite; provided that in no case shall the Deputy Magistrate increase the sentence passed by the Kardar.

Deputy Magistrate's duty on receipt of a case.

8. If in any case the Deputy Magistrate shall consider the offence committed to be one for which the sentence passed is wholly inadequate, he shall annul the conviction and sentence, and direct the Kardar to commit the case for trial to the Deputy Magistrate's Court, where it will be disposed of in the usual manner.

Case may be annulled and committed for trial to the Deputy Magistrate.

9. If the Kardar or Foudar should record a verdict of "Not Guilty" against the accused, he shall immediately discharge and release him, recording his reasons for the verdict; but he shall forward his proceedings to the Deputy Magistrate within 24 hours after.

Course to be adopted in cases of acquittals.

10. The Deputy Magistrate, on the receipt of such proceedings, shall review them, and if satisfied that the discharge was correct, return the proceedings to the Kardar for record. If not satisfied, he should summon the accused and witnesses and re-try the case.

11. These rules are not intended to affect cases disposed of by Kardars and Foudars under former rules, which will continue to be disposed of summarily, as heretofore.

These rules do not apply to cases within the original jurisdiction of Kardars, p. 39.

12. The object of this circular is threefold—

Objects of these rules.

Firstly—To afford speedy justice in all trivial and petty offences near to the homes of those seeking it:

Secondly—To elevate the office of Kardar, and to train such functionaries to take a larger share in the administration of justice; and

Thirdly—To relieve Deputy Magistrates from a part of their present criminal duties, in order to enable them to pay the more attention to their duties of supervision, and the general improvement of their districts.

13. These three objects should therefore be always kept in view; and every means, consistent with furthering the ends of justice, should be taken to avoid delays in the disposal of this class of cases.

14. Witnesses should be summoned, their depositions taken in the presence

Witnesses to be examined in the presence of prisoner, and then allowed to go home.

of the prisoners, and the witnesses should then be allowed to return to their homes at once, unless it be found that their detention is absolutely requisite.

15. It should be impressed upon all Kardars that these extended powers

Kardars to be made aware of their responsibility under this circular.

entail upon them a greater amount of responsibility, and that more energy and exertion will be expected from them; and that none but the most respectable and most intelligent among the natives of the

* country will be appointed to such posts of trust and honour.

16. Cases disposed of under this circular are to be entered in the criminal

Cases how to be entered in the Monthly Returns.

returns immediately after the cases disposed of by the Deputy Magistrate of the district; and the names of the Kardars disposing of them—*e. g.*,

“A. B., Kardar of C”—shall be entered in the column “By whom disposed of.”

No. XVII.

BRITISH BORN SUBJECTS.

The opinion of the Advocate General of Bengal, regarding the liability to the Mofussil Criminal Courts, of persons born in this country, lawfully descended from male European natural-born British subjects, whose mothers, grandmothers, or more remote ancestresses may not have been British-born subjects, and the letter which gave rise to the opinion, are printed for general information;—

From JAMES SIMPSON, Esquire, Joint Magistrate of Mirzapoor, to W. RITCHIE, Esquire, Advocate General, Calcutta (No. 543), dated the 18th December 1858.

I have the honor to submit the following case for your consideration and legal opinion:—

2. A, the son of a European British subject, is born in wedlock at Patna,

• in India, and married an Armenian woman in this country, from whom he had issue B, likewise born in lawful wedlock. Is B a European British subject, so as to render him not amenable to the Mofussil Criminal Court, or not?

3. I beg also to be informed what is the limit, if any, to country-born persons, descended legitimately from one European male ancestor several generations back, to be themselves considered as European British subjects, so as to render them not amenable to the said Courts.

P.S.—I beg also to request that you will be good enough to inform me whether the Circular of the Sudder Nizamut, throwing the *onus probandi*, that a defendant is amenable to the Mofussil Courts, *i. e.* is not a European British subject, on the Magistrate or committing Officer, is still in force or not.

From W. RITCHIE, Esquire, Advocate General, to J. SIMPSON, Esquire, Joint Magistrate of Mirzapoor; dated Calcutta, the 22nd December 1858.

In reply to your letter (No. 543), dated the 18th instant, I have the honour to state, that I am of opinion that in the case put by you, B, as the son born in wedlock of A, who was the son born in wedlock in British India, of a European British subject, is clearly a British subject within the meaning of the charter of, and Acts relating to, the Supreme Court, and is not amenable to the jurisdiction of the Mofussil Criminal Court.

2. The circumstance that A's mother was an Armenian, and that B's mother was not a European British subject, makes no difference in this respect. The son of a father who was a European British subject, and the son of such son, are both British subjects within the meaning of the Charter and Statutes, whatever be the race or country of their mother, provided the sons were born in wedlock.

3. The second question put by you is a more difficult one. It is certain that the legitimate grandsons in the male line of a European British subject are entitled to all the privileges of British subjects, within the meaning of the Charter and Statutes, though both they and their fathers may have been born in this country, of Native, Armenian, East Indian, or foreign mothers. Whether the privilege extends beyond the grandson has never been determined, and may be treated as an open and doubtful question.

4. My own opinion is, that, if the East India Company's possessions in India continued in the same state, in respect of sovereignty, as they were in 1774, when the Charter and the first Statute relating to the Supreme Court were passed, no descendant beyond the grandson of a European British subject would be entitled to the privileges of a British subject, such descendant, and his father, and intermediate male ancestor or ancestors being born in this country. For in that case, as India was, when the Charter and Statute passed,

out of the allegiance of the Crown, and its inhabitants were in theory the subjects of the Great Mogul, the descendants born in this country of a European British subject, would be born out of the allegiance, and would be aliens, but for the operation of certain general English statutes (25 Edward III., chapter 2; 7 Anne, chapter 5; 4 George II., chapter 21; 13 George III., chapter 21); and by these statutes the privileges of a British subject are limited to grand-children by the father's side of natural-born subjects. The same result would follow, whether the mother or female ancestors were British subjects or not.

5. But my impression is that from the time when our possessions in India became the dominion of the Crown, a different result followed: and that all children, grand-children, or more remote legitimate descendants, born after that time, within those dominions, of a European British subject, became themselves entitled to all the privileges of a British subject without the aid of the general statutes above referred to, as being born within, and not out of the allegiance of the Crown. I therefore am inclined to think, that in respect

* The date of such vesting was certainly after 1774, and previous to 1813. Practically, for the present purposes, I think the beginning of the century may be taken as the period.

of all persons descended legitimately from a male European British subject, and born in British India subsequently to the vesting of the sovereignty in the Crown,* there is no limit, in point of degree of descent, to the rights of such persons to claim

the privileges of British subjects.

6. The construction No. 759, of the *Sudder Nizamut Adawlut*, appears to be still in force in that Court. But it is, I apprehend, inaccurately framed, and has been remarked

R. v. Foy. Taylor and Bell's report, p. 219.

on as incorrect by the late Chief Justice Sir

Laurence Peel, in the Supreme Court. It is also, if taken without qualification, opposed to the spirit of the Privy Council's decision in *Calder v. Hall*. I think, however, that the Rule itself is not incorrect, if it be taken with the following qualification:—If the Magistrate know that the prisoner is a European British subject, it is his duty, whether the prisoner claims exemption or not, to abstain from further proceedings against him as a Magistrate. If, without any actual knowledge on the subject, the Magistrate have reason to suppose that the prisoner is such a British subject, it is the Magistrate's duty to ascertain from him, whether he alleges or denies that he is one. And if he alleges that he is, to give him every facility by allowing time, and otherwise, for proving that he is, the burden of such proof being on him. A Magistrate will not be justified, if he has reason to suppose that a prisoner is a European British subject, in proceeding against him as if he were not one, without first giving him a distinct opportunity of pleading that he is one. If he do not so plead, or be not able, upon time being allowed him for that purpose, to adduce any satisfactory proof of his being a European British subject, the Magistrate will be quite warranted in proceeding against him. If he do so plead, and

give proof or produce documents which, although not amounting to full legal proof of his status, satisfy the Court that he is really a European British subject, the Magistrate should, without putting the prisoner fully to complete his proof by strict legal evidence, take up the case as a Justice of the Peace, and send it up to the Supreme Court; taking care to record distinctly the statement made by the prisoner that he is a British subject of lawful European descent.

7. The regular course of taking the opinion of the Advocate General upon such questions as these is, by application through the Secretary to the Government (in the Home Department). To save time, however, I write to you direct in the present instance, but send copies of your letter and of my reply to the Secretary.

No. XVIII.

OFFENCES BY MILITARY PERSONS, WHEN COGNIZABLE BY THE CIVIL COURTS.

The following Minute by the Judicial Assistant Commissioner is printed for information and guidance :—

“I have had a consultation with the Deputy Judge Advocate General; and the Law relating to offences committed by Military persons, beyond Camp limits, is as follows :—

1. Any officer or sepoy committing “wilful murder,” “robbery,” or “other serious offence,” within one mile of the chief military station of a Zillah, or of any other military station duly notified by Government, is only amenable to military law, and can only be tried by a Court Martial.

2. Any officer or sepoy committing a trivial offence, such as trivial assault, petty theft, or any other crime, which, were it committed within camp limits, would be cognizable by the Bazar master, shall, if the offence be committed *anywhere* without camp limits, be amenable only to the Civil Magistrate of the district.

Note.—The “within one mile of camp limits” in paragraph 1, relates only to serious offences; with trivial ones, one foot beyond camp limits transfers the jurisdiction from the Military to the Civil Magistrate.

J. GIBBS,
Judicial Assistant Commissioner,

8th July 1859.

PART IV.

POLICE.

PART IV.

POLICE.

No. I.

POLICE OFFICERS FORBIDDEN TO TAKE CONFESSIONS.

Much serious mischief having been found to arise from the practice of Police Officers requiring, and by various means inducing, prisoners to confess crimes with which they may be charged, this practice is strictly prohibited throughout Sind.

2. Police Officers and Men are directed not only never to make use of force or threats to obtain, but are never to demand, Policemen not even to receive a confession. confessions of supposed or real Criminals; and, to prevent the possibility of misunderstanding, Police Officers and Men are prohibited from even receiving such confessions.

3. Whenever any person is apprehended on any charge, or on suspicion, If a prisoner expresses a desire to confess, he is to be taken at once to the Kardar or Deputy Magistrate. the Policeman apprehending him is to inform him of the charge on which he is apprehended; and should the person express to the Police Officer a wish to confess, the Police should at once take him before a Deputy Magistrate or other Officer entrusted with Magisterial powers, such as a Kardar, whose duty it will be to receive and to record the confession, and to communicate it to the Police.

No. II.

REWARDS TO PUGGIES.

The Captain of Police and Magistrates are authorized to award to Puggies, who may afford assistance in the recovery of stolen property, or the apprehension of offenders, such reasonable remuneration as the importance of their service may seem to merit. The reward is not, however (except with the special sanction of the Commissioner), to exceed the sum of Rupees (50) fifty.

No. III.

POLICE OFFICERS TO PROVIDE LINES FOR THEIR MEN.

The Police Authorities should take the necessary steps to provide their men with shelter where requisite, and not depend on the Revenue Officers.

No. IV.

POLICE OFFICERS TO WATCH ALL TRIALS, AND REPORT INADEQUATE SENTENCES.

The Lieutenants of Police should consider it a very essential part of their duty, after a case of murder, robbery with force, or other serious offence or crime, committed by an old offender, has been made over to the Magisterial Authorities, not to lose sight of the case till the final sentence has been passed.

2. In all such cases, the Police Officer should notify to the Authority to whom the case is transferred, that he wishes to know the result of the trial; and, if necessary, he may add the request that the prisoner may not be discharged from custody till satisfactory security has been taken for his appearance, and future good conduct; or, if the criminal be a very notorious offender, till a reference has been made to higher authority regarding his disposal.

Police Officer to request a report of the result of the trial.

May also request security for future good conduct before discharge.

3. Whenever in any case the punishment awarded seems to the Lieutenant of Police very inadequate to the offence proved, it is his duty to bring the case specially to the notice of the Captain of Police, for such further steps as may seem requisite.

To report inadequate punishments to the Captain of Police.

4. The Magistrates are directed to order all authorities subordinate to them, to give due attention to applications made in accordance with this circular.

Magistrates to direct their subordinates to give due attention to applications under this circular.

No. V.

ESCAPES OF PRISONERS.

An immediate report of all escapes of prisoners from custody, with the particulars of the case, should be forwarded to the Commissioner.

Immediate report to be made to the Commissioner.

2. At the same time, notice of such escapes should be given to all Magistrates within the Province, and to the Captain and Lieutenants of Police, to whom also a descriptive roll, containing all particulars known about the prisoners, should be forwarded.

Also to the Magistrates in the Province, and the Captain and Lieutenants of Police, with descriptive rolls.

No. VI.

TRANSMISSION OF FEMALE PRISONERS.

It having been brought to the notice of Government, that a female prisoner in India had died from the effects of exhaustion caused by a long journey, Government desire that the Police be instructed, when they have charge of women as prisoners on a long journey, not to travel more than ten or twelve miles a day, except at the express wish of the prisoners themselves; and that, should even that distance be more than the prisoner's strength will admit of, the Police should still further reduce the length of their day's march.

No female prisoner to travel more than 10 or 12 miles a day.

No. VII.

INQUESTS AND INQUIRIES INTO CASES OF SUDDEN DEATH.

In cases of suspicious death, the Patel or Headman of the Village in which it occurs will immediately report to the nearest Police Thanna, and also to the Kardar of the district; and will himself, assisted by two or more of the leading men of the village, institute inquiries into the circumstances of the case.

2. The Headman and his associates should form themselves into a court of inquest, examining most minutely into all the particulars of the case, committing their report to writing, if possible, and making it over to the Kardar or other Government Officer who may first arrive to investigate the matter.

With other leading men, will at once set on foot an inquiry, and report result to Kardar or Policeman on his arrival.

3. The body of the person, whose death is the subject of inquiry, should not, as a general rule, be interred till after it has been viewed by the Kardar or other Government Officer.

Body should not be interred until seen by Government Official.

4. The Kardar on his arrival will personally examine the body, and the locality where the death took place, and will institute such further inquiries as may appear to him advisable, committing everything worthy of note to writing on the spot, for the information of the Deputy Magistrate of the district.

5. But if it is quite clear that the sudden death was natural or accidental, and that no blame attaches to any living party, and if the body should begin to be offensive before any Government Officer arrives to hold an inquest, then the Patel may hold the inquest, and give orders to bury the body, and he shall submit the report of the inquest to the Government Officer as soon as he arrives. But the Patel will be held responsible that this course is not pursued without good cause.

6. The Headmen of villages should be warned that any failure on their part to perform faithfully the duties assigned them will meet with severe punishment.

7. A form for an inquest report is added for general information :—

“We, the undersigned, having viewed the body of the late son of [enter age, religion, tribe, and place of residence] find that there is a deep cut commencing from the back of the neck, nearly severing the head from the body, and which must have caused immediate death. There are a few slight scratches and bruises on the face and left hand of the body, but there is no other wound except that on the neck, which appears to have been made with the sword.

From the appearance of the body, and the evidence of witnesses examined by us, we are of opinion that the deceased son of was murdered by son of on the . The deceased had probably been dead about twelve hours at the time of our viewing the body, which was lying on the ground with its head towards the north, outside the hut of in the village of at the place where the murder was committed.

The sword with which the murder is said to have been committed was produced before us, the lower half much stained with blood. It is sealed in our presence and made over to Havildar of Police.

(Signatures)

_____ Kardar of _____
 _____ Headman of _____
 _____ Zemindar of _____
 _____ Havildar of Police _____”

(Date)

8. A fine should invariably be imposed by the Magistrate in *all* cases of sudden and suspicious death, where the body is buried without permission of the authorities, except good reason for the orders not having been complied with by the parties concerned is shown. It is the most effectual check that can be devised against secret murder.

Fines to be imposed when cases of sudden and suspicious deaths are concealed.

No. VIII.

RULES FOR GRANTING PURWANNAHS TO BEAR ARMS.

The Police are responsible to Government for the peace of the Province, and they alone should grant Purwannahs to carry arms.

2. The Magistrate and Deputy Magistrates are often, from their local knowledge, acquainted with individuals to whom the indulgence of carrying arms for shooting game may be given, without risk of harm, and they are at liberty to recommend any person to the Captain or Lieutenants of Police for the grant of such Purwannahs, and unless the Police are aware of any objection, they should, as a matter of course, attend to such recommendations.

3. These Purwannahs should be made renewable every year, by being registered by endorsement in the office of the Lieutenants of Police.

4. The Magistrates should, from time to time, forward the names of such persons as he may recommend to be allowed to use fire-arms for shooting game, not included in the two lists of privileged persons mentioned in my Circular No. 1941, dated the 26th November 1850, Political Department, and who are entitled to Purwannahs (provided their conduct be good) as a matter of right and privilege; which is, however, a personal privilege and does not extend to followers, for whom separate application must be made to the Captain of Police, and separate Purwannahs granted.

No. IX.

REGARDING THE SALE OF CHILDREN FOR THE PURPOSES OF PROSTITUTION.

Proclamation by the Commissioner in Sind.

Whereas it has been brought to notice that members of the Kunjur tribe, to enable them to obtain girls for the purposes of prostitution, go about the country, and, under the semblance of marriage, purchase girls from the

Marriage of Kunjurs to obtain girls for prostitution prohibited.

Mohana, Shikaree, and other tribes. It is hereby declared and made known, that any Kazee in Sind who may celebrate such a marriage between any man of the Kunjur tribe, and a female of tender years belonging to any other tribe, is guilty of a criminal offence, and will, on being convicted, be liable to such penalty not exceeding three (3) years' imprisonment with labour, with or without fine, as the Court before whom he is tried may award.

Kazees solemnising such marriages punishable.

Penalty.

2. Any person of a different tribe disposing of his daughter to any Kunjur in marriage for purposes of prostitution, will, on conviction, be liable to punishment under Regulation XIV. of 1827, Section XXXI. Clause 5, and suffer such sentence not exceeding (5) five years' imprisonment with labour, with or without fine, as the trying authority may award.

Persons giving girls to be so married also punishable.

Penalty.

Such marriages null and void.

3. It is further declared that any such marriage is null and void.

No. X.

PEONS' BADGES.

The following extract from General Orders by His Excellency Lieutenant General Sir C. J. Napier, G.C.B., Governor of Sind, dated Kurrachee, 20th April 1847, is republished :—

“There are men who go about with belts across their shoulders and brass badges. They pass themselves upon the poor people as Government Peons, and do much mischief—robbing the people—all which is laid upon the Government: It is therefore ordered that none but men in Government employment are to wear these belts. Those of the Military Departments are to be *red*, those of the Civil Departments to be *blue*.

“Any man found with a belt over his shoulder, who is not in Government employ, is to be taken up by the Police, and a report made to the Governor who is determined to prevent the tyranny which has, in numerous cases, been inflicted upon the people in Sind, especially by the peons of the contractors.”

Penalty.

2. The Railway and Steam Flotillas may, in this respect, be regarded as Government institutions; and shop-keepers and merchants in large stations may be allowed to use peons with belts, but the belt should be sufficiently distinct to enable the people readily to distinguish them.

Railway and Steam Flotilla Companies as also Merchants in large stations excepted.

No. XI.

PROCLAMATION AGAINST TRESPASSERS.

By the Commissioner in Sind.

Whereas it has been brought to the notice of Government that no sufficient punishment is provided for persons found trespassing in private premises at unseasonable hours, and the peace and harmony of respectable families is endangered thereby. This is to give notice, that any person found so trespassing, and unable to give a satisfactory account of himself, will be liable to be apprehended by the Police, and, on conviction, to suffer such of the penalties laid down in Regulation XII. of 1827, Sections 19 and 45, as the trying authority may deem fit.

H. B. E. FRERE,
Commissioner.

Commissioner's Office, Kurrachee, June 1859.

PART V.

MISCELLANEOUS.

PART V.

MISCELLANEOUS.

No. I.

GOVERNMENT OFFICES TO BE OPEN TO THE PUBLIC.

The attention of all officers is drawn to the importance of admitting the public into their cutcherries, and so allowing petitioners and all others who have business with them free and unrestrained access, at all reasonable hours, upon days when their offices are open for the transaction of public business.

2. If the people have ready access to the European Officer, without the necessity of intervention of moonshees, puttewallas, and other Government servants, and if they see that what they state is understood without an interpreter, the probability of frauds being committed by native officials is greatly diminished, and detection facilitated, while the people themselves soon learn to look up to the proper authority, instead of depending, as is otherwise too often the case, upon the influence they may be able to exert with the moonshee or other subordinate, while the latter are much more careful to give no just cause of complaint.

No. II.

CASES OF TORTURE.

Government desire it to be clearly understood that every officer that fails, directly or indirectly, to record cases, however slight, of infliction of torture, will be visited with their severest displeasure.

No. III.

POLICE HORSES NOT TO BE USED AS POST HORSES.

A impression prevails among some of the civil officers in Sind that they are at liberty to use the horses of the mounted Police at the various thannas

along a road, as post horses, when they may be travelling along the line on duty.

2. Such a practice is most pernicious, inasmuch as it is unjust to the owners of the horses, and, when extensively practised, destructive of the efficiency of the mounted Police.

Such a practice is unjust to the owners, and detrimental to discipline.

3. The practice of using the horses of the police sowars as post horses is, therefore, strictly prohibited in Sind; and these horses are never to be employed on other than their proper work, excepting in such emergencies as might justify the employment, without the owner's consent, of the cattle of any private person.

And therefore strictly forbidden.

Exceptions.

4. Whenever, on such emergencies, the police horses may be so employed, compensation, at such rate as the Captain of police may decide to be equitable, is to be paid to the owners of the horses by the parties using them, who may prefer contingent bills for the amount when it may be justly chargeable to the State.

Compensation to be given.

Equally applicable to the officers of police.

This prohibition extends also to the officers of the police.

No. IV.

JUDICIAL ASSISTANT COMMISSIONER.

The Judicial Assistant to the Commissioner, while on tour, will visit the Offices of the Judicial Deputies and Deputy Magistrates as often as his other duties may permit.

To visit Adawlut, &c.

2. The Judicial Assistant to the Commissioner should sit as an assessor while any civil or criminal trial is going on. His suggestions with regard to form and procedure, whether in the conduct of trials, or with regard to records, returns, and other matters of office routine, should, in all ordinary cases, be attended to, reference being made to the Magistrate on any point where the Judicial Deputy sees cause to doubt the propriety of any change recommended by the Judicial Assistant to the Commissioner.

To sit as an assessor.

His suggestions to be attended to as a general rule.

3. With regard to the decision of any case, the Magistrate or Deputy Magistrate will, of course, act on his judgment and responsibility.

The decision of the case to rest with the trying authority.

No. V.

INJURY TO ELECTRIC TELEGRAPH POSTS.

Section X. of Act XXXIV. of 1854, quoted below, regarding Electric Telegraphs, is to be strictly enforced.

“Whoever shall wilfully or negligently damage or injure any portion of the line of such Electric Telegraph, shall be liable to a fine not exceeding fifty Rupees.”

Injuring Posts, &c. Sect. X.
of Act XXXIV. of 1854.

No. VI.

CONTEMPTS OF COURT.

1. The Kardars, Moonsiffs, or other Native Officers having Judicial powers, should punish cases of contempt summarily under Act XXX. of 1841, and fine under that Act up to the extent of their respective jurisdictions.

Native Judicial Officers to
fine under Act XXX. of 1841.

2. As the presiding Officer is the best judge of what is a contempt of his Court, and as it is an offence which is almost always committed in his presence, depositions are not generally required.

Form of record. .

3. But in cases where Kardars and Moonsiffs fine for contempt of Court, they should report having so done, with a brief statement of the particulars of the case for the information of the Deputy Magistrate, who then, if he consider it necessary, might make further inquiries, or simply record the report. Such fines are, of course, open to appeal.

Kardars and Moonsiffs to report
the cases.

No. VII.

FEMALE SUICIDES.

In 1847, Sir Charles Napier issued the following circular:—

“I call upon all magistrates to warn the people that, where women are found hanged, I am determined to make the whole village suffer, unless the real story of the murder is discovered, and the murderer is shown up. It must be evident to every magistrate, that nothing but the most arbitrary treatment of the whole village can prevent this injurious and horrible plan (which has apparently been adopted generally) of murdering the women, and pretending that they committed suicide. I beg of the magistrates to warn the

Sir C. Napier's Circular.

Kardars that they must find out the truth,—they can do so with ease,—and if they do not, they, too, shall suffer. It is just one of those fearful conspiracies to baffle a just law, that must be met with great firmness, and punished with great rigor. I can see no other means of putting an end to such a piece of detestable villany ; but it will require the greatest vigilance on the part of the magistrates to check this dreadful proceeding, and I have no doubt that every magistrate will do his best in so serious an affair.

“ Proclamation.

“ People of Sind,—The Government has forbidden you to murder your wives, a crime commonly committed when the British conquered this country.

“ This crime of woman-murder is forbidden by the religion of the English conquerors ; who shall dare to oppose their law ? Woe be to those who do so !

“ But this is not all, Ye Sindians, Belooches, and Mahomedans, murder is prohibited by your Prophet ! You, who murder your wives, outrage your own religion as much as you outrage ours ! This the Government will not permit.

“ Government therefore visited with punishment such murderers, and the crime began to disappear. Some foolish men among you believe that the English are easily deceived, and you have, in a vast number of cases, hanged your wives, and then pretended that these poor women committed suicide.

“ Do you imagine that Government believe that these women committed suicide ? Do you believe that Government can be deceived by such villany, that it will let women be thus murdered ? If you do believe this, it becomes necessary to teach you how erroneous is your judgment, and if you persevere your sufferings shall be great.

“ You are therefore thus solemnly warned that in whatever village a woman is found murdered, a heavy fine shall be imposed upon all, and rigidly levied. The Government will dismiss the Kardar. It will order all her, and all her husband's relations up to Kurrachee, and it will cause such danger and trouble to all, that you shall tremble if a woman is said to have committed suicide in your district, for it shall be an evil day for all in that place.

“ You all know that what I say is just ; for never was woman known to have committed suicide in Sind till the law decreed that husbands should not murder their wives ; and this year vast numbers of women have been found hanged ; gross falsehoods have been put forth by their families that they committed suicide ; but woe be to their husbands ! for the English Government will not be insulted by such felons. The murderers shall be sent to labour far away over the waters, and heard of no more.”

2. Subsequent to this circular being issued, female suicides became matters of less frequent occurrence. But after two or three years they again became more common, and reports were called for and careful inquiries instituted : these

resulted in one discovery, viz., that no case of a Hindoo woman committing suicide could be found; leaving it tolerably certain that the practice commented on by Sir Charles Napier was still unchecked; and in 1853 the result of the inquiries showed that such cases were even further on the increase.

3. It was found that between the 8th June 1852 and 9th April 1853 no less than 42 cases had been reported, and in not a single instance were satisfactory reasons assigned by the relatives, or discovered by the Police, for the commission of these acts.

No satisfactory reason to be discovered for 42 cases of suicide.

Rules issued.

4. The following rules were therefore issued on the subject:—

“I. Whenever in a case of alleged female suicide, there shall not be sufficient legal proof to obtain a conviction against the parties for murder or culpable homicide, but whenever there are sufficient reasons for suspecting that the female did not destroy herself, or that the inhabitants of any village, instead of affording every possible assistance to the Police, obstructed them, and endeavoured to screen suspected parties, it shall be the duty of the magistrate, in conformity with the instructions of Sir Charles Napier, to levy a fine upon the whole community, similar to fines levied under Section XXXVII. of Regulation XII. of 1827, and to be realized in the same manner.

“II. The sentence should clearly specify the parties from whom, and the mode in which, the fine is to be levied.

“III. All magisterial authorities are enjoined to punish, with the utmost severity, aggravated cases of adultery. For, as adultery and infidelity on the part of females are the causes which induce husbands and male relatives to put them to death, it is but fair and just that, while severe penalties are enforced against the latter class of offenders, the former class should also be severely punished.

“IV. All persons convicted of adultery and sentenced to imprisonment, shall, on entering any jail, be shaven, or subjected to such other severe forms of prison discipline, as may be in use in that jail.”

5. These rules have, doubtless, had a beneficial effect, but as instances became known in which persons attempted to commit suicide, the following rules were issued for the disposal of such cases:—

“I. The punishment by imprisonment or otherwise of a person who attempts self-destruction, appears to be contrary to common sense, for no one can imagine that a person to whom death has no fears, and who is desirous of quitting this world, will, upon failing to accomplish his or her purpose, be

Attempts at suicide how, to be dealt with.

likely to be deterred from further attempts by any punishment, which must in itself be of less severity than the death which they are endeavouring to seek.

“ II. The course to be pursued should be to expostulate with such persons, and to point out the folly and wickedness of desiring to cut short that life which has been given them by Providence, as well for their own good as for that of others. To combat with the cause which led them to attempt suicide, and to excite the relations and friends of the parties to adopt similar arrangements, and by their influence deter the unhappy would-be self-murderers from their purpose.

“ III. Cases may arise in which cruelty on the part of husbands or other relatives may prove to have been the cause for attempting self-destruction; in such instances, severe lectures to the oppressor, and, if necessary, taking security for future good conduct should be had recourse to. It seldom happens that persons commit suicide without some real or fancied ill-treatment, and it is the exciting causes which should be dealt with, and not the unhappy victim of them.

“ IV. The regulations do not expressly make such attempts penal, and it is not wise to bring such cases within the very wide provisions of paragraph 7, Clause 1, Regulation XIV. of 1827. For the future, therefore, such cases should not be made the subjects of criminal trials.”

No. VIII.

THE RISE OF NATIVE JUDICIAL FUNCTIONARIES.

The following narrative will show the rise and progress of the civil and criminal jurisdiction, by Kardars in Sind :—

1. Although undoubtedly Kardars had long exercised an irregular and unrecognized sort of Judicial authority, yet the step of conferring on them regular powers was much opposed by the officers in Sind. But after some correspondence, Mr. Frere considered such a step justifiable, and in August 1851 the Kardars were first invested with civil and criminal powers. The Commissioner issued a circular, stating that the measure was experimental, but that he hoped it would prove a substantial boon to the people generally, not only by making justice more accessible, but by relieving the European Officers from many petty details, which prevented their giving attention to matters of greater general importance to the interests of the people under their charge.

2. The attention of the local officers was specially directed to assist to the uttermost in giving the measure a fair trial, and a report was ordered to be

furnished at the end of November, on the following points :—1st, whether the system had, as a *general* measure, worked well or ill ?—and 2ndly, what particular modifications were desirable in it.

3. A draft of a sunnud was forwarded, to be granted to all officers to whom any judicial powers are assigned,—intended to remind them of the general duties and responsibilities of their office.

4. Drafts of particular rules for the guidance of each class of officers were also sent.

5. In delivering the sunnud and rules, the Magistrate and his Deputy were directed to bear in mind that the object was both to impress the officer with a sense of the responsibility invested in him, and also to let those under him become aware of the exact nature and extent of the powers conferred, and the importance attached by Government to their proper exercise. It was pointed out, that this course was especially desirable in a country like Sind, where the people had been used to see great and undefined powers exercised by men who had not the smallest possible claim to the character of servants of Government, whilst those who were really Government servants of high rank, often lacked the powers to give redress in the most petty cases.

6. Copies of the document so delivered were ordered to be fixed in some conspicuous part of the dehra, or place which the recipient commonly used as an office, and to be there kept in a state legible by, and accessible to, all who might wish to inspect it.

7. Rules for the administration of civil and criminal justice by Kardars and Foudjars were likewise drawn up.

8. The criminal powers therein given were, it was explained, intended to be exercised by all Kardars within their several jurisdictions; but with a view to divide the onerous duties of the Sudder stations, and to avoid interference with existing Police arrangements, the Kardars were not to exercise these powers within the limits of the towns of Kurrachee, Hyderabad, and Shikarpoor, where Foudjars had been appointed.

9. With regard to the administration of civil justice by Kardars, all such officers, including those at the Sudder stations, were to exercise these powers.

10. In other words, it was ordered,—

1st.—That in the districts the Kardars will exercise the jurisdiction now confined to Magistrates and Deputy Magistrates in all cases Civil and Criminal, up to the limits fixed by the rules; and

2nd.—That, at the Suddur station, the Foudjar will exercise the jurisdiction in Criminal, and Kardar in Civil cases.

11. The Magistrate and his Deputies were directed to revise, mitigate, or annul, but not enhance, any sentence passed by native functionaries under their orders. When a sentence so passed appeared too lenient it was to be

annulled, and the case sent up to the Magistrate or his Deputy to be tried by them.

12. These officers were further reminded that the beneficial exercise of the powers conferred on the Kardars, would be best promoted by interfering as little as possible in the way of alteration or mitigation of their sentences, which should only be altered when it was absolutely necessary to prevent injustice; but that every error or omission should be pointed out for their subordinates' information and future guidance; and it was suggested that this would be the better done by personal communication and example than by increasing the amount of correspondence.

13. Finally, the Magistrates and Deputy Magistrates were enjoined to endeavour, as much as possible, to carry the feelings of the people with them in this or any other measure of improvement; and to enable them to do so, they were directed to exert themselves to obtain speedy justice for the poor, and to repress any attempt which the native officials may make to use their authority for improper purposes.

14. The result of these experiments proved highly satisfactory. In the year 1852 the introduction of the revised establishment caused some few modifications to be made, the chief of which were as follows:—Kardars were divided into three classes:—

I. Mooktyarkars.

II. Kardars who exercise their powers independent of a Mooktyarkar.

III. Kardars who are subordinate to Mooktyarkars.

15. All of these classes were invested with the criminal powers conferred by the former circular, and were in addition allowed to dispose of all civil suits up to Rs. 50, provided the cause of action occurred within two years previous to the date of the petition.

16. They were further permitted to receive complaints in cases in which the amount exceeded Rs. 50, and were furnished with instructions how to forward them to the Deputy Magistrate for disposal.

17. Kardars and Foudjars at stations where the European Officers were present were authorized to sentence to hard labour, subject to confirmation.

18. Naiks or Head Moonshees of 1st and 2nd class Kardars were empowered to exercise the jurisdiction of a Kardar to the full extent during the absence of the Kardar from the limits of his own jurisdiction; and to the

15 Rupees fine.
20 days imprisonment.

extent of 12 hours confinement in the stocks, Rs. 5 fine, and eight days imprisonment in the lock-up, while the Kardar is absent from his head-quarter station on circuit within his districts. They were also allowed to commence all serious cases by recording the depositions, &c. in the Kardar's absence.

19. By the same circular, Moonsiffs were appointed at the three head-quarter stations, with powers to decide Civil Suits not exceeding Rs. 200.

20. The local officers were further directed to report on the system at the end of the season 1852-53.

21. These reports were received, and proved, beyond doubt, that the measure was most acceptable to the people, and that increased powers might, with advantage, be conferred on many of the native officials.

22. A circular was accordingly issued, which, with subsequent modifications, contains the present extended criminal powers exercised by the district officials.

No. 40 of 17th January 1854.

The Kardar's civil jurisdiction was afterwards increased to Rs. 50, unfettered by any other limit than, that of Regulation V. of 1827, and the Proclamation of Sir C. J. Napier, and subsequently to Rs. 200.

These powers, as subsequently increased, will be found set forth at pages 40 and 59.

No. IX.

CRUELTY TO ANIMALS.

Cruelty to dumb animals by overloading them, by starving them, or by over-driving them when, from disease, sores, or impoverished condition, they are unfitted to carry burdens, is prohibited.

Cruelty to animals forbidden.

2. Instructions have been issued to the Police to seize any camel, horse, pony, ox, bullock, buffalo, donkey, or other beast of burden or dumb animal found so treated, and to take the owner before any Kardar or other Magisterial Officer; and such owner, on conviction, is declared liable to punishment by fine, under the provisions of Regulation XIV., Section I., Clause 1, Paragraph 7, of 1827, not exceeding Rupees (5) five for the first offence, and not exceeding Rupees (20) twenty for any subsequent offence, commutable to a period not exceeding in the former ten days', and in the latter to one month's imprisonment, with or without labour.

Police to apprehend owner.

Punishment to be awarded.

No. X.

SUBORDINATES TO BE SUMMONED THROUGH THE HEAD OF THE DEPARTMENT.

As a general rule, when officers of one department have occasion to summon parties belonging to another department, the summons should be sent through the officer under whom the party required may be serving, unless in

cases of emergency, when it may be served direct: intimation of it, and the cause of the emergency, should be sent as soon as possible to the superior officer of the department.

No. XI.

FINING PETITIONERS DISCOURAGED.

The fining of petitioners for making complaints, which the party complained against fancies false or frivolous, is an illegal and mischievous system, and is one which, if practised by European authorities, will doubtless be followed by Kardars, and every native functionary down to the lowest peon.

No. XII.

SINDEE TO BE THE OFFICIAL LANGUAGE OF THE PROVINCE.

The native record of all judicial proceedings of every kind should be kept in Sindee, with the exception of depositions, &c. by parties who are not natives of Sind, or papers originally written in some other language.

Judicial proceedings to be recorded in Sindee.

2. In cases where the services of an interpreter are required, in consequence of the language of the deponent being foreign to Sind, and one with which the Court and its officers are not acquainted, the deposition may be recorded in any language most convenient to the Court.

Cases in which the language of deponent is foreign to Sind.

3. An abstract of the finding and decree or sentence may be recorded in the language of the trying authority. When that language is not Sindee, a Sindee translation must be made, signed by the trying authority, and recorded with the case.

Finding or decree to be recorded in the language of the trying authority, and a Sindee translation made, if necessary.

No. XIII.

SIZE OF OFFICIAL PAPER.

All proceedings, yadis, &c. in the native languages, whether in the civil and criminal courts, or in revenue and other matters, should be written on paper cut the exact size of foolscap: and when more than one page is required, instead of joining on a piece at the bottom, the writing should be continued on both sides the paper, as in a book or English correspondence.

All documents in the native language to be written on paper cut foolscap size.

No. XIV.

PUBLIC OFFICERS NOT TO ASSIST PEOPLE TO PETITION.

Government consider the practice of public servants assisting parties to prepare petitions, memorials, and representations on official matters, to be particularly objectionable, and therefore direct that it be strictly prohibited in all Departments, both as regards European and Native officials.

No. XV.

PUBLIC CORRESPONDENCE.

With a view to the reduction, as far as possible, of the correspondence between the subordinate officers and the Commissioner, the following rules should be in future strictly attended to :—

Rules for the reduction of correspondence within the narrowest limits.

- 1st.—In reporting, for the information of the Commissioner, any facts or circumstances of an ordinary and simple character, all officers, through whom such reports may pass, should hand them on with an endorsement thereon.
- 2nd.—In reporting subjects of a more complicated character, the enclosures are to be confined to such letters and statements only, as are requisite for the purpose of full explanation and elucidation.
- 3rd.—When letters and enclosures are transmitted in full, they are to be submitted in original, copies being kept, if necessary ; but whenever practicable, without the risk of misapprehension or obscurity, extracts of the material parts are to be made and attached to the correspondence, in lieu of the original letters.
- 4th.—Whenever any public officer may have occasion to despatch more than one official communication to the same officer by one day's post, the whole shall be forwarded under one envelope, a narrow binder being placed round each of the letters enclosed, and each being separately numbered.

No. XVI.

TREATMENT OF KARDARS AND OFFICERS OF RANK.

Kardars of districts, and Officers of Police not below the rank of Jemadar, should always receive chairs in their interviews with European functionaries.

Kardars and Police Officers entitled to chairs in their interviews with European Officers.

No. XVII.

SUNDAYS TO BE KEPT.

The orders of Government regarding the cessation of public works on
Sundays, contained in the notification of the Bom-
Execution of public works on bay Government, dated the 26th January 1843,
Sundays strictly prohibited. republished by order of the Right Honourable the
Governor in Council on the 30th October 1854, appearing to be very imper-
fectly observed, it is directed that the instructions of Government may for the
future be carefully attended to.

PART VI.



JAILS.

PART VI.

JAILS.

RULES TO BE OBSERVED IN ALL JAILS.

SECTION I.

INTRODUCTORY.

1. The three Sudder Jails in Sind are each under the charge of the Lieutenants of Police of the Zillah, and the District Jails under the respective Deputy Magistrates.
2. There is at each of the Sudder Jails a Marshal, who is responsible to the Lieutenant of Police. There is also a Deputy Jailor and a Matron, and such staff of Assistants as from time to time may be requisite.
3. At the District Jails there is a Jailor and Deputy Jailor, who are selected from the Police. They are, while so employed, under the immediate orders of the Deputy Magistrate of the District.
4. No prisoner shall be received into any Criminal Jail without a warrant or written order, after the annexed form, signed by the Magistrate or Deputy Magistrate. Warrants for civil prisoners are to be signed by the above-named officers or by the Moonsiff.

Form of Warrant.

To the Officer in Charge of the Jail at *Hyderabad*.

You are hereby required to receive charge of the undermentioned prisoner and to dispose of him according to the sentence, of which an abstract is given below:—

Prisoner's						Nature and date of offence charged.	Officer by whom committed to Jail.	Date of commitment.	Period for which he is to remain in Jail.	Nature of punishment he is to undergo.
Name.	Father's Name.	Age, in Years.	Religion.	Tribe or Caste.	Village.					
<i>Futeh Mahomed.</i>	<i>Abdool Raza.</i>	<i>21</i>	<i>Mahomedan.</i>	<i>Kashellee.</i>	<i>Taroo-shah.</i>	<i>Robbery, with force, by night.</i>	<i>Captain Cowpar.</i>	<i>15th Sept. 1858</i>	<i>3 Years.</i>	<i>With labour.</i>

Dated, Deputy Magistrate's Office at *Tarooshah*, *R. Cowpar*, Captain,
the 15th day of *September* 1858. Deputy Magistrate.

Filed, General Jail Register, No. 154.,
C. E. Naylor, Lieutenant of Police.

Separate warrant for each prisoner, which is to be countersigned by the Officer in charge of the Jail.

5. There shall be a separate warrant for each prisoner ; and, on receipt of the prisoner, the warrant shall be countersigned by the Officer in charge of the Jail.

General Jail Register.

6. These documents are to be daily filed, and from them the General Jail Register Book is to be compiled.

7. All Gentlemen in Civil employ in Sind, ex-officio Visitors, and Military Officers, European and Native, when in uniform, are to be allowed admittance to the Jails, the Marshal or Deputy Jailor attending them during the visit. The Officer in charge of the Jail will give such instructions as he may consider desirable, regarding the admission of other occasional visitors ; but, as a general rule, no respectable person, either European or Native, should be debarred the privilege of visiting and inspecting the Jails, on making due application,—care being taken that their visits do not interfere with the regulations for the safe custody of the prisoners.

Visitors.

8. A Visitors' Book is to be kept, in which they should be requested to enter their names, adding any observations they may have to make on the state of the Jail.

Visitors' Book.

9. The officer in charge of the Jail shall visit it at least once a month, and as much oftener as he can, to redress grievances and see that the rules for the management of the Jail are strictly adhered to. He shall receive and forward to the Commissioner or other Officer any petitions addressed to them, each petition to be accompanied with a roll after the annexed form ; but petitions from convicts, sentenced by Military authorities are, by the orders of Government, to be transmitted direct to the Adjutant General of the Army, for submission to the Commander of the Forces.

Officer in charge to visit Jail once a month.

To forward petitions of prisoners.

Petition Roll.

Name of Petitioner.	When, where, and by whom tried.	Abstract of Crime and Sentence.	Substance of Petition, with remarks of the Officer in charge of the Jail.
Nubbee Buksh.....	1st October 1858. Jerruck. Captain Southey.	Robbery, without force, by day. One year's imprisonment, with labour.	For release, on account of unfairness of trial. — Prisoner is a troublesome character. Petitioned the Magistrate on 1st January last :—disallowed.

10. The following Books are to be kept in the Sudder Jails, and such of them as may be required in the District Jails :—

In English.

1. General Jail Register of Prisoners.
2. Jail Minute Book.
3. Visitors' Book.
4. Punishment Register.
5. Daily Report of Prisoners in Jail.
6. Register of Contingent Bills, and Expenses incurred on account of Jail, &c.
7. Prisoners' Property Register.
8. Account of deceased Prisoners' Estates.
9. List of Articles manufactured by Convicts.
10. Petition Register.

In Sindhee.

1. Daily Report, showing how each Hard-labour Prisoner is employed.
2. Prisoners' Friends' Register.
3. Daily Report of Prisoners in Jail.
4. Register of untried Prisoners.
5. Day Book, Jail Workshop.
6. Ledger do. do.
7. List of Sick Prisoners, without Irons.

SECTION II.

DISCIPLINE.

11. On the admission of any prisoner to Jail, he will receive at once, if convicted, a blanket and suit of Jail clothing, with sleeping mat; he will, if his sentence exceeds six months, be shaved, and have his hair closely cut.
Admission of Prisoners to Jail.
12. His property is to be entered in the Book kept for that purpose, and according to the prescribed form; the entry read over to him, and his mark or signature taken.
Prisoners' property to be registered and preserved.
13. He will be presented the following morning, with the register recording his name, age and caste, crime and sentence, to the medical officer, who will examine his capabilities for hard work, or the contrary, his state of health and apparent sanity of mind, and will either admit to Hospital, or certify his fitness for hard labour, or solitary confinement, in one of the columns of the Jail admission book.
Prisoners to be examined by medical officer on admission.

14. Every prisoner when presented to the Surgeon for examination, must have his blanket, jail dress, cap, leather gaiters, and fetters or ankle-ring fastened on, and the medical officer will certify if they are in good condition, and of proper quality.

Prisoner when presented to Surgeon to have all his clothing, &c. complete.

15. If the prisoners are transferred from one Jail to another, two different forms of descriptive rolls in English, the one signed by the Lieutenant of Police, the other by the medical officer, are to be sent with them, with good and complete clothing and bedding.

Prisoners transferred from one Jail to another.

State of health and clothing to be examined by medical officer on arrival.

16. On their arrival at the new Jail, these descriptive rolls will be carefully compared, and the state of the prisoners' clothing and fetters entered at the foot by the medical officer.

17. A list of the jail articles sent with the prisoners is to be delivered by the officer in charge of the guard; and all these articles, whether tents, cooking vessels, clothing, or fetters, are to be returned at once under charge of the same guard, or their value (as marked in the list) remitted by treasury order, at the option of the receiving officer.

Articles of clothing, &c., sent with prisoners, to be returned or paid for.

18. During their transit from one Jail to another, the prisoners should, if possible, be encamped at night inside a chowkee or other building, and be fastened to a chain provided for that purpose, all being attached to it before dark.

During transit, to be secured at night.

Vide page 59.

SECTION III.

CLASSIFICATION.

19. All female prisoners are to be kept in the female jail, totally separate from the male convicts, and under the immediate charge of the matron.

Classification and separation of prisoners.

20. No female prisoner should ever be taken out of the female jail, save to the female hospital, except on occasion of being released.

Female prisoners to be strictly kept in the female jail.

21. Authorized interviews with any of the female convicts must always be held in presence of the jailor or his assistant, and the matron.

Interviews with friends.

Classification of male prisoners.

22. The male prisoners should be kept in separate wards, according to the following classification:—

1st.—Prisoners under examination, or not convicted; or convicted, but pending the sentence being confirmed.

2nd.—Debtors, civil or revenue.

3rd.—Europeans and Eurasians.

4th.—Boys, and juvenile offenders under 16 years of age.

5th.—Cases of misdemeanours of sorts, and petty offences.

6th.—Cases of theft of sorts, according to class.

23. A muccadam or ward-master, chosen from the best behaved prisoners,

Prisoner-muccadums in charge
of the barracks.

is appointed to each pendall or barrack, and is expected to keep the prisoners and building in good order,—strict attention being paid to cleanliness both in the barrack and yard.

24. If anything occurs during the night, these men are expected to report

Muccadam to report to turn-
keys.

it at once to the turnkeys; and should a prisoner escape after being locked up, they will forfeit the privileges they enjoy.

25. At gunfire or daylight, the prisoners are roused; the muccadums

Prisoners to rise at daylight.

report to the turnkeys (before the doors are opened) if all the prisoners are present.

26. The barrack doors are opened, the night-pans removed immediately

Barracks or pendalls to be
cleaned and bedding aired in the
morning.

by the sweepers, bedding rolled up and taken out into the air, the floor and walls of the barracks are “leaped” on the regular days (varying according

to the station, damp places requiring it less frequently than dry situations), and the yards swept and cleaned.

Work to commence half an
hour after.

27. Work should be commenced by all within half an hour after the doors are opened.

28. When the prisoners sleep in barracks, lights should be kept burning in

Every prisoner to sleep in one
allotted place.

each ward during the night; and, whether in pendall or barrack, each prisoner should be made to sleep in one allotted place. Should he make any attempt

at escape during the night, the prisoner who sleeps on either side of him will be considered answerable for neglect, in not giving notice to the muccadam or patrol.

29. No hired *coolies* or other persons are allowed to work with the prisoners,

Prisoners not to work with
hired labourers or mechanics.

either in the garden or elsewhere, except in the case of mechanics, hired specially to teach a particular trade, such as tent making, carpet weaving, &c.

30. It is most important to act strictly up to the intention of the order

Out-door labour prohibited as
a rule.

prohibiting all out-door labour, the object being to make the prison a place both of punishment and rigorous exclusion from the benefits of freedom, or

association.

Note.—This applies to the head quarter Jails. In the district Jails, where there are no workshops, the prisoners may be employed on public works.

31. All tobacco, opium, churrus, or other luxuries are equally prohibited. If opium is ordered by the medical officer for any one, the prisoner receiving the drug is to be considered a hospital patient, and will receive hospital rations.
- Opium and smoking prohibited.

SECTION IV.

CONSERVANCY ARRANGEMENTS.

32. Cesspools being found by experience to become permanent nuisances, the best way of disposing of refuse matter from the Jail, is to have a trench dug at the furthest end of the garden, or other convenient spot, into which the filth should be thrown every day. The trench, which should be two feet in depth, should be kept ready dug, and the necessary space required for the reception of each day's refuse matter, should be filled in every evening, covering it over with an embankment of 2 feet of earth on the top, to prevent the possibility of any effluvium during the rains. These trenches have now been in use in most of the Jails in the Punjaub for several years, and are found to answer admirably: perfect decomposition is effected within a period of six months, and no other manure is required for the soil.
- Cesspools prohibited; night soil to be removed daily.

33. The clearing out the necessaries, and removing the earthen night-pans, to be the first thing done every morning; and the officer in charge of the prison yard will be held responsible that this is done at the very earliest hour, both in winter and summer, so that no annoyance may be offered to any one from the removal of the Jail sweepings.
- Necessaries to be cleaned out the first thing in the morning.

34. The night-pans and earthen pots used in the wards are to be well washed after the contents are emptied, and to remain in the open air until evening, when they will be brought into the barracks, and placed on sand, which should be occasionally taken out and dried.
- Night-pans, &c. to be well cleaned.

35. At each well, the surplus water should be allowed to drain into a large earthen "kund" sunk in the ground, or a "pucca" reservoir, made with a concave bottom, for the greater convenience in emptying the contents, which should be sprinkled on the ground of the Jail yard two or three times a day.
- Surplus water of well to be received into reservoirs, and then sprinkled over the ground.

36. As a rule, no "pucca" drains are required in any part of the jail; they are costly, and become offensive, from being improperly made use of by the prisoners. A shallow
- "Pucca" drains prohibited.

surface drain, made on the ground, with well rammed "kunkur," or broken bricks, is the best means for carrying off rain water, and it can be effectually cleaned, or renewed from time to time.

SECTION V.

FETTERS.

37. The ordinary fetters for use in the Jails in Sind are to be of two kinds,

Fetters to be of a uniform size and pattern.

bar and chain, each of a uniform size and weight, according to the prescribed patterns furnished to every prison, and which are ordered to be kept with the pattern clothing in the jail office, as the standard in making up a fresh supply from time to time. Each pair of chain fetters is to weigh $2\frac{1}{2}$ lbs., and each pair of bar fetters is to be 18 inches long, and 5 lbs. in weight, inclusive of the ankle-rings.

Weight, size, and general directions for making fetters.

They should be well rounded, and the upper ring or connecting link, should be strong and very small, to prevent the introduction of a stick or other substitute, which, on being turned round, could easily break them.

38. The ankle rings should have double rivets, and be made very round

Ankle rings how to be made.

and smooth: care is specially required that the ring be not made large enough to allow of the prisoner drawing his foot out, as is very commonly done: the thickness of the ring should be fully half an inch, to prevent bending or breaking.

39. The fetters and rings should be kept clean and free from rust, and be

Fetters to be kept bright, and carefully examined.

examined carefully at least every week. If worn thin in any part, they should be at once removed, and replaced by others.

40. A leathern gaiter, kept soft by oil, is to be constantly worn by every

The leathern gaiter to be constantly worn under the ankle ring.

prisoner under the ankle ring, to prevent the skin being chafed.

No cotton or other rag to be allowed round the rings, nor are they to be tied up to the calf of the leg.

41. The ankle-rings are not to be tied up by string attached to the calf of the leg, nor is any cotton or woollen rag allowed to be worn under or over the rings.

Fetters to be suspended by leather, not string or rope.

42. To prevent the risk of suicide or escape, the fetters are ordered to be suspended to the waist by a strip of leather, instead of rope or string.

Fetters not to be removed from any prisoner, without a written order.

43. The fetters are not to be taken off any prisoner, without the written order of either the Lieutenant of Police or Medical Officer, the entry being

made in a book kept specially for this purpose.

44. On any prisoner being discharged cured from hospital, and delivered over again to the jailor, it will be his duty to see that the same description of iron fetter is worn by him, as was the case before his admission to hospital, so that no excuse may be subsequently offered of a prisoner having his fetters exchanged, or removed while sick.

Prisoners discharged cured from hospital to be again ironed as before.

45. The bar fetter is to be used as a punishment :—

Bar fetter when to be used.

1st.—When the prisoner has broken jail or attempted it.

2nd.—In cases of insubordination, or when the prisoner is known to be of a violent disposition : in such cases, the officer in charge of the jail is to record the reason for it in the jail minute book.

3rd.—When the medical officer recommends it in the case of malingerers.

46. Prisoners, when taken from the jail for examination to the Magistrate's Cutcherry, are not to have their hands fastened by a rope or cloth, but are to be secured while in transit in pairs by handcuff, fastened on one wrist only, and secured, if necessary, when more than four prisoners are in one party, to a light chain, which passes through the hasp of the handcuff, and is instantly removed or applied.

Prisoners taken to the Magistrate's Court from the Jail, to be secured in pairs, by handcuffs.

47. For dangerous characters, or those sent in from the district under serious charges, the bar handcuff, attached to both wrists, may be adopted for the greater security of the prisoner,

Dangerous characters to have bar handcuffs.

SECTION VI.

CLOTHING.

48. Every prisoner is to wear a suit of jail clothing, according to the one uniform pattern, supplied for general adoption ; this consists of a quilted cap, a coat made of doosootie, and a pair of pyjamas, both dyed orange yellow (babool) ; he is also to be provided with a blanket and sleeping mat for night.

Description of clothing which is to be uniform.

49. In the cold weather, the coat is replaced by a wadded one, and an additional blanket is served out.

Cold weather addition.

50. Great care should be taken, that the winter clothing and blanket be available, and delivered to all the prisoners, by the 1st October.

Period for issuing winter clothing.

51. The summer clothing should be issued by the 15th of March, and care be taken for the prompt and careful repair of the winter clothing, extra blanket, and rug, which are to be taken back into store when the summer clothing is issued.

Summer clothing. *

52. The prison dress is ordered to be worn by *all* sentenced criminal prisoners, except Europeans and Chinese; and no others should be allowed to retain any portion of their own private clothing in jail.

The prison dress to be worn by every convict, except Europeans and Chinese.

53. The prisoners' clothing should be all made in jail, and the uniform pattern preserved, by introducing a *cross* stripe of a different colour, so as to distinguish it, as of jail manufacture, from any ordinarily sold in the bazaar. By adopting a particular and distinctive jail pattern, a great check against speculation is established.

A distinctive mark is to be adopted in making cloth for prisoners' dress.

54. No pockets or opening in the lining should be allowed to be made in any part of the coats, as is constantly done for the sake of concealing tobacco, money, or food.

55. The blanket is never to be worn when the prisoners are at labour, and on no account is it to be used for carrying grain, atta, or other substances in, or to be twisted up and placed on the head.

The blanket not to be worn while at work.

56. The additional blanket allowed during the cold season should have a red stamp, or other distinguishing mark, by which it can be easily recognized; and this blanket, being given only for use at night, should never be taken out of the barracks when the prisoners go to work.

The second blanket for the cold weather to be marked, and not to be removed from the sleeping ward.

SECTION VII.

DIETARY.

57. A standard allowance of food has been fixed for adoption in all the Jails in Sind; a copy of the scale made out in English and Sindhee is placed on a board at the Jail office, or entrance-room; it cannot be departed from without special sanction obtained from higher authority, through the Captain of Police.

Food.

The Dietary cannot be altered without special sanction.

58. As the health of the convicts mainly depends on the goodness of the food supplied them, the special attention of all officers is called to this point; and, in order to prevent inferior or unsound grain being tendered, it is ordered that a week's supply of all provisions

The health of the prisoners mainly depends on the quality of their food.

Food to be tested by medical officer and officer in charge of the Jail.

required for the prisoners shall be brought to the jail every Monday morning, and there examined by the medical officer and officer in charge of the Jail simultaneously, when it will be either received or condemned, and an entry made in the Jail Minute Book accordingly.

59. The scales used in the godown and cook-houses are to be examined every week; the weights should be iron, marked with a proper stamp, and tested from time to time, to ascertain that they are perfectly true and correct.

Scales and weights to be accurate, and tested occasionally.

Messing being the fixed rule, no prisoner is to be allowed to cook for himself.

60. Messes of twenties being ordered as the fixed rule, without any exception, in every jail, all cooking is to be strictly confined to the cook-houses.

61. Care should be taken that a constant supply of vegetables be available throughout the year. In places where there are jail-gardens, they should be so managed as to provide the requisite description and quantity.

Vegetables to be procured, and when practicable to be raised in the jail-garden.

Jailor to be held responsible for the supply and quality of the food.

62. The jailor should be held responsible for the supply of the food, and other articles of consumption, which he is to examine daily.

SECTION VIII.

PRISONERS' PROPERTY.

63. All cash, jewels, and ornaments should be preserved in a chest, *placed under the jail-guard*, and the clothing and other property is to be tied up in bundles (bearing a ticket outside, showing clearly the name, register number, and contents), and placed on racks in a separate building or store-room, which should be used for no other purpose.

Cash property to be kept under the Jail guard.

Clothing, &c. to be kept in a separate store-room.

64. The key of this godown is to be kept by the jailor himself, and he is to be held personally responsible for the careful registry and safe preservation of these articles.

65. On a prisoner's release, he is to receive his property in the presence of the Lieutenant of Police (who signs the column in the register to that effect). No person on the prison establishment is to be permitted to receive or use any article belonging to a prisoner, whether given to him or not, either before or after the prisoner's release.

A prisoner, on release, is to receive his property in the presence of the Lieutenant of Police.

66. When a prisoner is transferred from one jail to another, the whole of his property is to be sent *with* him, together with a full and correct list of the articles.

67. In cases where the term of imprisonment exceeds one year, the clothes or perishable property should be given to prisoner's friends, or sold at the cutcherry, or foudaree, and the cash produce entered in the register accordingly.

Register of Property belonging to Prisoners confined in the whether convicted or under trial only.

Jail,

Register No. of Prisoner.	Name.	Father's name.	Date of admission.	Date of property received at jail.	Cash.	Jewels.	Clothes or sundries.	Value from sale of the above, where the Prisoner's term is above 1 year.	Date of property (or cash value from sale) being returned to the Prisoner, on his release.	Signature of the Officer in charge of Jail, in whose presence the property was delivered to the Prisoner, or his Heirs.

Note.—The property is to be entered at the time of its being received, without waiting until the prisoner is convicted or sentenced. If the prisoner is transferred to another jail, the whole of his property is to be sent **WITH HIM** (with a list thereof), *not forwarded afterwards.*

SECTION IX.

PRECAUTION AGAINST ESCAPE.

Every prisoner to be considered under the care of some guard, who is responsible for his safety.

68. It must be laid down as a fundamental rule, and constantly and rigidly acted up to, that every prisoner is under the care of a particular guard, who will be held personally responsible in case of his escape.

69. The guards should fully understand that imprisonment is the penalty for allowing a convict to break jail, through their neglect. A fine can always be paid by the prisoner's friends, and simple dismissal will never check the evil.

70. In the case of a prisoner escaping, a report is to be made at once (in English, and not vernacular) both to the Commissioner and Captain of Police, as well as the Lieutenants of the other zillahs. In this report, full details should be given of the time and circumstances under which the escape was effected.

An immediate report of any prisoner escaping from jail, to be made to Commissioner and Captain of Police.

71. A subsequent report is to be made in case of re-capture, stating the particulars thereof, any reward which may have been granted, and the degree of blame attaching to those by whose neglect the escape was accomplished:— in the case of the guard being tried, the result of the trial is also to be reported.

72. All superfluous articles used in building or repairing the jail, such as ladders, pulleys, ropes, &c., are to be altogether removed at night, and kept at a distance from the prison. No store of firewood is to be kept inside the jail.

All ladders poles, and ropes to be removed from the jail.

Articles required for manufactures to be kept in the work-yard, not in the jail.

73. All articles required for the manufactures are to be kept in the work-yard, and not brought within the prison-yard.

74. The tools used by the blacksmiths and carpenters, as well as powrahs and hatchets, should be carefully counted every evening, and placed under the charge of the guard outside the jail, or in the workyard.

Tools, &c., to be kept outside, under the jail guard.

Pegs or sticks in the walls strictly prohibited.

Prisoners to be searched on being locked up for the night.

The wards and cells to be carefully examined.

75. No pegs or sticks are to be allowed in the walls, either of the barracks or yards.

76. The prisoners are to be carefully searched on being locked up for the night, and their wards and cells examined carefully, both morning and evening.

77. The greatest care is to be taken, when the relatives of a prisoner are admitted to see him, that nothing is surreptitiously introduced into the jail; the interview being always held in the presence of two officers, of whom the jailor or his naik should be one.

The relatives of any prisoner to be searched, before being admitted to an interview.

78. The walls of every jail and barrack yard or work-yard, should be made from 15 to 18 feet high, so that no prisoner can reach the top when standing on another man's shoulders.

Every wall to be at least 15 to 18 feet high.

79. Great precautions are necessary in the Hospital, that the charpoys are not removed, or made available for assisting a prisoner to escape, by being placed against the wall, and that the leg irons are not removed from any long-termed, or dangerous characters. If necessary on medical grounds, it would be advisable to keep such a case in one of the solitary cells.

Precautions against escape from hospital. Dangerous or determined prisoners, if sick, should be attended in the solitary cells, not in the hospital.

80. The poisonous drugs, such as opium, morphia, strychnia, &c., should be kept by the native doctor under lock and key, and not be accessible in any way to the convicts who act as hospital servants, which class of men should always consist of well-conducted prisoners.

All poisonous drugs used in the hospital dispensary, to be kept under lock and key.

81. So also with those men who work in the garden, or on public works ;

A list of such prisoners as work in the garden, to be kept for reference at the gateway.

a list should be kept at the gateway, of such as are privileged to go outside the jail for this purpose ; and the jailor or his deputy should always be at the

gate, to see the gang go out and come in.

82. A single sepoy should never have charge of more than two prisoners outside the jail, and if the prisoners amount to 10

A single sepoy never to be in charge of more than 2 prisoners outside the jail.

in number, three sepoys should accompany the party ; allowing after that number, an extra sepoy to every four additional prisoners.

The prisoners in the garden are to work together, not in detached parties.

83. These men are as much as possible to work together, and not singly ; the guard should be cautioned on this head.

84. A lamp is to be kept burning throughout the night, at the gate-way of

A lamp to be kept burning at the entrance throughout the night.

the jail ; and there should be also kept ready for immediate use a stock of blue-lights and torches, oil and matches, so that, in the case of an attempt being made to escape on a dark night, light may be instantly procurable.

Blue-lights and torches to be kept ready for instant use.

85. A lantern is to be also kept ready for use at every jail entrance, for

A lantern to be also at hand.

the purpose, if necessary, of visiting the wards at night time.

86. The padlocks used in every jail should be of English and not native

Padlocks to be of English and not native manufacture.

manufacture ; they should be each of a different pattern, and those used at night *only*, for locking up the prisoners in the barracks, should be always removed during the day, so that no possibility of tampering with them can occur.

To be removed from the doors during the day time.

87. In case of a key being mislaid or lost at any time, the padlock is to be destroyed.

88. The Jailor is to be made clearly to understand, that if any prisoner

Jailor to be responsible, and punished in case of neglect.

escape through his neglect, in not having these rules constantly observed, and kept in force, he will be punished either by fine, or dismissal.

SECTION X.

SANATORY MEASURES.

89. In addition to the ordinary "*leeping*" of the barrack floor and walls

Leeping of the barracks and cells.

up to the height of 6 feet, it is ordered that, twice every year, the hospital is to be white-washed, and

Hospital to be white-washed.

the walls of the sleeping wards "*leaped*" or white-washed up to the roof. This is the most effectual preventative both of insects and vermin, and it neutralizes the risk of infectious diseases appearing, where any large body of men occupy the same building throughout the year.

Jungle and weeds to be prevented growing.

90. All jungle, grass, and weeds should be prevented growing either inside the area of the jail, or within 100 yards of the outer enclosing wall.

91. Earth should not be dug for bricks or other purposes close to the jail; and all low, hollow ground, and especially stagnant pools, should be carefully filled up, and drains cut to prevent the accumulation of water near the prison.

Earth not to be dug near the jail.

92. All old "*gurrahs*," and vessels for holding drinking water, should be renewed when necessary, and both these and the "*mussucks*" cleaned occasionally with sand or charcoal.

Drinking vessels and water bags to be renewed or cleaned.

Cooking vessels to be kept pure and clean.

93. The cooking vessels should be kept perfectly clean.

Labour to be adapted to the powers of every prisoner.

Formation of convalescent and infirm gang.

94. In order that the labour assigned to each prisoner may be adapted to his powers, an infirm and convalescent gang is ordered to be formed at every jail, in which prisoners, on their being first discharged from hospital, or others who are unfitted for hard labour from debility, old age, or other infirmity, should be placed.

95. No one should be allowed to join this gang except on the written order of the medical officer, the names being kept in a book assigned for this purpose, and which will require examination and correction, from time to time, as the prisoners recover or are released.

The names of all prisoners in the convalescent gang to be entered in a book.

Labour adapted for infirm prisoners.

96. The labour assigned to the convalescent gang should be of the lightest description, such as picking wool, cleaning cotton, twisting thread, "*leaping*" the barrack walls, &c., and the men so employed shall wear a distinguishing mark.

SECTION XI.

POLICE or MILITARY GUARD.

97. One-third of the guard is permitted to be absent at the same time for the purpose of cooking, and for this business two hours only will be allowed. The cooking time to commence immediately after the arms are lodged in the forenoon.

Rules respecting absence for cooking food.

98. The officer commanding the guard and the next senior should never be absent from the guard at the same time, and when the senior leaves the guard, he ought regularly to make over charge to the next senior man.
- The two senior officers of the guard never to be absent at the same time.
99. No one is to quit the guard after sunset, except on occasions of necessity, and then only for a short time; it never should be permitted for a man to be absent for an unreasonable time on such occasions.
- No one to quit the guard after sunset.
100. The whole of the guard must be ready to stand to their arms, and turn out during the night. One sepoy will invariably be on sentry at the guard room, and be ready to give notice to the main body of the guard in the event of disturbance.
- The whole guard to be ready to turn out at night.

SECTION XII.

SENTRIES.

101. Relief of sentries will always be marched off by a non-commissioned officer, who is to explain to the sentry the orders of his post.
- Relief to be marched off by a non-commissioned officer.
102. Sentries are not to allow prisoners to leave the jail, unless they are under the escort of a jail official; they will not allow any communication to take place between convicts and persons outside the jail, and are themselves forbidden to hold any intercourse with prisoners.
- Sentries on duty at the gate to allow no prisoner unattended by a guard to pass out nor to communicate with the prisoners.
103. Sentries will not permit strangers to enter the jail, unless their admission is sanctioned by the jailor, or the senior jail official present.
- No strangers to enter without the jailor's sanction.
104. Rounds should go twice during the night, at uncertain hours, at the discretion of the officer commanding the guard, to see that the sentries are alert: the officer commanding the guard taking charge of the grand rounds; and the juniors, by regular turn, taking the visiting rounds.
- Rounds at night.
105. It should rest on the discretion of the officer commanding the guard to send out more frequent rounds on special occasions, and the rounds should not visit the sentries at the hours of relief.
- The rounds not to visit the sentries at the hour of their being relieved.

SECTION XIII.

THE TURNKEYS.

106. The turnkeys are not to be changed except by the special order of the Lieutenant of Police for some neglect or breach of discipline, nor will they be required to perform any duty outside the jail.
- Not to be changed without the order of the Lieutenant of Police.

107. Their duty is to search every prisoner, both on his quitting the barrack and jail for the garden or work-yard, and again on his re-entering the prison area, as well as when locked up for the night in the sleeping wards.

Post and duties.

108. During the day they will be stationed at their fixed posts; one being always at the jail gate to prevent any person or article from being improperly passed in or out of the jail.

During the day one to be stationed at the gateway of the jail.

SECTION XIV.

THE MARSHAL OR JAILOR.

109. The marshal or jailor is to be considered as responsible for the safety of the prisoners, and for the constant observance of the rules laid down under the several heads connected with the discipline, classification, labour, and diet of the prisoners and other subordinates borne on the rolls of the Jail establishment.

His responsibility for the safety of the prisoners, and observance of the jail rules.

110. The proper office of the jailor is that of exercising a regular and increasing supervision of every department of the prison, and this requires him necessarily to be constantly passing through the different portions of the jail, not confining himself to his own house or the jail office, but visiting the wards, cooking places, workshops, garden, hospital, and guard-house, during the day, and occasionally visiting at night to ascertain if the sentries and patrols are on the alert, and not asleep at their posts.

His duties.

To be constantly in the jail visiting the different departments.

To visit the jail occasionally at night also.

111. The jailor should not give orders to the men of the guard; the order should always be given, except in cases of emergency, through the officer commanding the guard, and no orders of importance should be given verbally.

Orders to be given to the officer commanding the guard, not to privates.

112. Strangers admitted to inspect the jail will sign their names in the book, which will be presented to them at the entrance gate, in which they are requested to record any remarks or observation they may think necessary.

Strangers admitted inside the jail to sign their names in the book.

113. The jailor is to examine all the prisoners on Sunday morning, and ascertain that every one is clean, and has his clothing and bedding complete and in good order, his fetters not requiring repair, and the leather gaiters perfect. The Civil Surgeon or the Native Doctor will also attend at the same time.

Weekly inspection of prisoners by Jailor and Civil Surgeon or Native Doctor every Sunday morning.

114. The jailor is to take care that no prisoner has possession of any tobacco,

No prisoners to obtain tobacco, or any other article.

String or rope prohibited for any purpose.

Money found on a prisoner to become the property of the finder.

The care of the prisoner's property devolves specially on the jailor:

117. He is required to

To be present at the distribution of the food.

All orders of the Lieutenant of Police to be entered in writing in the jail order book.

Police's signature. This becomes a record of much value, preventing doubt or misunderstanding, and prevents any future plea of ignorance in case of neglect.

Jailor is prohibited from punishing any prisoner without the Lieutenant of Police's order.

120. A record of all

Report of all punishments to be made yearly.

money, rope, knife, or other instrument, or, in fact, any article whatever beyond his dress, blanket, mat, and earthen drinking-vessel. "Lotahs" are strictly prohibited, and no string is to be allowed to be fastened either to the fetters, sleeping mat, drinking cup, or conservancy pans.

115. All money up to the amount of five Rupees, found on the person of a prisoner, or discovered in the jail, becomes the property of the finder.

116. The registry and care of the prisoner's property specially devolves on the jailor, and no justification will be permitted for his performing this duty by proxy.

be present at the distribution of the prisoners' food every day, and to investigate at once any complaint made of bad food, or deficient quantity.

118. Every order connected with the jail should be at once entered by the jailor in the jail order book, and presented for the Lieutenant of

119. The jailor has no power of his own to order any prisoner to be punished, whether by flogging, solitary confinement, additional hard labour, or any other method.

kept in every jail, and a report to be made at the end of the year to the Captain of Police for the information of the Commissioner.

SECTION XV.

THE MEDICAL OFFICER.

121. The medical officer in charge of the jail is required to visit the jail hospital and solitary cells daily. He should

Medical officer's duties.
To visit the jail daily.

carefully examine the state of those placed in solitary confinement, reporting at once the necessity of any convict being removed on grounds of physical or mental infirmity.

122. He is required to inspect all the prisoners once a week in company with the Lieutenant of Police, and to examine the wheat and other provisions tendered for the use of the prisoners, all bad grain, whether damaged by wet or insects, dirty, or mixed with other grains and

Inspection of all prisoners once a week to be regularly observed, in company with the Lieutenant of Police.

impurities, should be condemned.

123. The state of the cooking pots, the appearance of the drinking vessels and water, the prisoners' clothing, and bedding, if in good repair and sufficient for the season of the year, the cleanliness of the jail wards and necessities,

The cooking pots to be examined.

and especially the ventilation of the sleeping barracks, and the number contained in each, should be noticed, and reported in the Jail Minute Book.

124. Every prisoner confined in hospital should be allowed not less than

600 cubic feet to be allowed each prisoner in hospital.

600 cubic feet, and no sleeping ward should contain a greater number of prisoners than what will admit of each man having 400 cubic feet of space.

Want of ample ventilation the chief cause of sickness in Jail.

125. There are no two causes that tend to keep up sickness and mortality in our jails so much as over-crowding and deficient ventilation.

126. At his daily visit to the jail, the appearance of the vegetables and food supplied to the whole bulk of the prisoners,

Daily duties of medical officer,

and the perfect absence of husks or coarse particles, either in the flour or bread, should be regularly and thoroughly ascertained, and all articles of extra diet furnished to the patients in hospital, such as milk, meat, &c., should be brought into the jail sufficiently early to be examined, and either approved of or rejected.

To view the body of every deceased prisoner, and certify the death by written entry in the Release Book.

127. The medical officer is required to view the body of every prisoner dying in jail, before it is removed for the purpose of burial, and to certify to that effect, as also to the cause of death, in the "Register of Releases."

128. All subjects connected with the general health of the prisoners, not merely those sick in hospital, come within the jurisdiction of the medical officer, such as the severity of

All subjects connected with the general health of the prisoners to be attended to by the medical officer.

labour assigned to the inmates of the jail, the possible existence of malaria caused by want of drainage, or rank vegetation near the prison-walls, the state of the drains and wells inside the prison area, and the floor of the barracks on which the convicts sleep at night.

129. The first symptoms of scurvy, cholera, or any epidemic should be

Symptoms of scurvy, &c. to be specially watched.

most carefully watched for, and vigorous measures taken at once to check its increase, and an immediate report is to be made, through the Captain of

Police, for the Commissioner's information.

130. The medical officer has power to order an alteration of diet for those

Prisoners may be released in special cases of dangerous illness where life is despaired of.

prisoners who seem to require it; as also to recommend the release of any prisoner, whose further incarceration in jail would be attended by death.

Prisoners to be examined both on admission to Jail, and when transferred to another prison.

131. Prisoners are required to be examined by the medical officer both on admission, and when transferred to, or received from, another jail.

132. The convalescent

Convalescent gang.

In case of fetters being removed by order of the medical officer, care to be taken that they are replaced *before* quitting hospital, and all such cases to be entered in a book with the surgeon's signature.

gang, and those prisoners who, from ulcers or other medical reasons, require their irons to be removed (which should always be replaced *before* quitting hospital), require the surgeon's close attention, every prisoner's name being duly attested by him in the books kept for that purpose. Without great care on this point, many prisoners will improperly

obtain the benefit of one or other of these privileges, through the collusion of their guards.

SECTION XVI.

MISCELLANEOUS.

133. Whenever a prisoner is committed to jail for safe custody after sentence, but pending the receipt of confirmation, he

Course to be pursued when prisoners are sent to jail pending the confirmation of their sentence.

should be sent with an English or Sindee warrant to the officer in charge of the jail, specifying the usual particulars, such as name, charge, sentence,

and date thereof, and it should also be stated therein that the proceedings have to be confirmed by higher authority.

134. The officer in charge of the jail should, upon this temporary warrant,

If final warrant does not arrive within 3 months a reference to be made.

detain the prisoner in safe custody, and should the final warrant not arrive within three months from the date of sentence, the officer in charge of the jail

should refer to the trying authority in order to ascertain the cause of delay; or if, in any case, the period of confinement should reach the limit of the punishment the trying authority is authorized to inflict without confirmation, the officer in charge of the jail should at once refer to his immediate superior for instructions.

135. All officers in charge of jails are to furnish the Commissioner, on his

Return of prisoners in jail to be furnished to the Commissioner on arrival at each station.

arrival at their stations, with a return according to the annexed form, showing the number of prisoners in confinement on the date of his visit, distinguishing those sentenced to labour from those sentenced

to simple imprisonment. The returns should also show how each prisoner is

employed, the number sick and insane, and the number of debtors in the Civil Jail.

Note.—The Kardars' returns should be in Sindree.

Return of the number of Prisoners in the Jail of _____ on
the _____ day of _____ 18 .

[illegible]

How the above prisoners are employed :—

Public works.

Weaving.

Grinding.

Cleaning jail.

Sick, incapacitated for work.

§c. *§c.* *§c.*

(Signed) *A. B.*, Deputy Magistrate.

136. When prisoners are released, each prisoner who has been six months or upwards in jail is to receive four annas, an old

Prisoners on leaving Jail to be furnished with subsistence money to enable them to reach their homes.

or upwards in jail is to receive four annas, an old blanket from the jail stores, and subsistence money to his home, at the rate of one anna a day, reckoning each day's journey at five kos, or 10 miles; prisoners who have been in jail for a less period

than six months are to receive only two annas, together with the same amount of subsistence money to enable them to reach their homes.

137. It is, of course, intended that this indulgence should be limited to

This allowance to be limited to pauper prisoners.

pauper prisoners ; and due inquiry should be made accordingly before granting relief.

PART VII.

· · A D D E N D A.

PART VII.

A D D E N D A.

No. I.

THE POWERS OF THE CAPTAIN, LIEUTENANTS, AND ADJUTANTS OF POLICE.

The Captain of Police in Sind has the powers of a Magistrate up to 2 years' imprisonment, fine, flogging to the extent of 50 stripes, solitary imprisonment not exceeding 4 months.

He has full powers to promote, reduce, or dismiss all commissioned and non-commissioned officers, and privates of the police force;—an appeal from his orders lying to the Commissioner.

The Captain of Police can grant rewards, not exceeding Rupees 50, to puggees who may afford assistance in the recovery of stolen property or the apprehension of offenders.

The Lieutenants of Police have the powers which a Deputy Magistrate exercises without confirmation, as laid down in paragraph 5 of Circular No. I., page 40, viz. 1 year's imprisonment with labor, fine, flogging not exceeding 50 lashes, solitary imprisonment not exceeding 2 months. Sentences in excess of this, but within the jurisdiction of the Captain of Police, are subject to that officer's confirmation.

The Adjutants of Police have the powers of a Lieutenant, but their proceedings are subject to the Captain of Police's confirmation, and are handed up to that officer by the Lieutenant of Police with such remarks as he may consider necessary.

No. II.

CASES OF ABORTION.

Native Police Officers are not to inquire into charges of abortion, unless specially ordered to do so by competent authority.

No. III.

BATTÀ TO WITNESSES.

The following rules are laid down for regulating batta, or subsistence money, to witnesses while in attendance at the different criminal courts :—

1st. No person who is summoned to attend before any judicial authority within the town, or kardarate, in which he usually resides shall, as a general rule, be entitled to batta, unless he be so detained more than three (3) consecutive and entire days from his home, when he shall be entitled to one anna per diem for the whole period of his detention.

2nd. If a person residing in one kardarate be summoned to appear before a judicial authority in another kardarate, he shall receive batta at two (2) annas per diem from the day he leaves his home until the day he returns to it, both days inclusive.

3rd. Ten miles shall be considered a day's march, and this rate is to be used in calculating the distance a witness has to travel from and to his home.

4th. While cases are pending before any judicial authority, the witnesses in attendance should be called before such authority every afternoon before the office closes, and there be paid their daily subsistence or batta.

5th. Whenever one judicial authority has occasion to forward witnesses to another beyond the limits of any one kardarate, he should calculate the distance by Rule No. 3, and pay the amount of batta so calculated to each witness, in advance, for road expenses. He shall also send with the papers of each case a memorandum in Sindee, showing the names of each witness, and the amount paid in advance, as also the date of despatch.

6th. On the first of each month, each officer should draw from the nearest treasury as many Rupees as he considers sufficient for his batta expenses during the month—say 20 Rupees for a Magistrate, 50 Rupees for a Deputy Magistrate, and 10 or 15 Rupees for a Kardar. This sum should be made over to the charge of the head moonshee, who should credit that sum in a book kept for the purpose, the pages being numbered and sealed by the head of the office like the kardar's day book, and debit all payments made under Rule 4; the judicial officer should then affix his initials to the total of each day's disbursements.

7th. Whenever a Deputy Magistrate is moving about in his district, he requires an advance for the payment of subsistence money to witnesses and prisoners. For this purpose, the Deputy may be authorized to take an advance from the kardars; and as the accounts are much complicated by large balances of advances remaining unadjusted at the end of the month, the following plan is to be adopted.

8th. The Deputy will take an advance, for these purposes, at the beginning of the month, of not more than he estimates will be required for expenditure.

within the month; and towards the close of it he will make up his bill, and at once advise the kardar. But a small balance thus remains at the end of the month, the greater part of the advance being covered by the bill; and this small amount, which must necessarily remain to pay for expenses during the last few days of the month, should be adjusted in the next month's account.

9th. The bill and the amount entered in the accounts should always tally; for instance, a bill for December, and charged in the December's cash account, would be for the month commencing—say the 28th November, and ending 28th December.

10th. To illustrate this by an example, it may be supposed that a Deputy leaves his head quarters on the 1st November, taking an advance of Rs. 20; by the 28th, he spends Rs. 15 and keeps Rs. 5, and in the cash account there will be an entry of Rs. 15 paid as batta to witnesses, &c., and only Rs. 5 as advance. In December, the Deputy requires,—say, Rupees 25, for which he sends a receipt, and receives in cash 20 Rupees and a receipt that Rs. 5, advanced in the preceding month, has been paid—thus the outstanding advance is adjusted. It is only when Deputies are far off that any advance remains unadjusted. This very detailed explanation will, it is trusted, prevent all difficulty.

11th. The actual amount disbursed as batta during the month should be debited at the end of the month, and a bill for the amount drawn out and sent to the Deputy in charge of the treasury along with the other vouchers for the month's disbursements.

12th. One bill for the whole Zillah will be sufficient to forward to the Commissioner for countersignature and subsequent audit.

13th. One or two annas per diem, according to Rules 1 and 2, are the regular rules of batta; three or four annas per diem may, however, be given at the discretion of a Magistrate, or Deputy Magistrate, when the person summoned, either from rank, infirmity, or sickness, has been obliged to use a horse, camel, or cart as a means of conveyance. If more than 4 annas per diem is considered necessary to cover the travelling expenses of any person required as a witness, sanction should be applied for, as a special case.

14th. Witnesses to prisoner's confessions, or inquest reports, are always to receive 4 annas per diem.

No. IV.

ADDITIONAL RULE REGARDING PLEADERS.

Some misunderstanding having arisen on the question of fees to be allowed to pleaders, in suits in which an acknowledgment of the demand is entered, the following rules are, in future, to be followed:—

I. Full fees, where the suit is prosecuted to the end, after an inquiry on the merits.

II. Half fees, where the suit is undefended, or an admission of the debt is made, but where the vakeel has prepared the pleadings, and is prepared to proceed with the prosecution of the suit.

III. Quarter fees, where no proceedings are gone into, the suit being struck off or withdrawn.

No. V.

ACCOUNTS IN CIVIL SUITS TO BE PREPARED IN THE VERNACULAR AS WELL AS IN ENGLISH.

In civil suits in which the Court has to go through intricate accounts, in addition to the English record in the handwriting of the trying authority, a clear statement of the accounts *in detail* should be made out by the Sheristadar, and form part of the vernacular record.

2. When any interest is allowed, the rate at, and date from which it is calculated, should be carefully set out.

No. VI.

OFFENCES BY EUROPEANS, NON-MILITARY, WITHIN CAMP LIMITS.

The following minute by the Judicial Assistant Commissioner, regarding the case of an European, not a camp resident, or amenable to military courts, charged with a trivial assault within camp limits, is published for the information and guidance of all magisterial officers :—

“ 1. The question raised is, who is to try the case ?

“ 2. I learn from Colonel Skinner's Rules for the guidance of Courts Martials, that a Bazar Master has the power, when a Justice of the Peace, to punish Europeans for assaults, trespass, &c., when committed within camp limits, in the same manner as a Magistrate or a Deputy Magistrate, being the Justice of the Peace, has power within his districts, *provided that* the said camp is situated within 120 miles of the Presidency.

“ 3. It is clear from this, that the Bazar Master at Kurrachee, which is more than 500 miles from the Presidency, has no authority over Europeans in camp.

“ 4. Under these circumstances, who has ? I considered from the first, that the Civil Magistrate of the Zillah, being a Justice of the Peace, has,—and the Deputy Judge Advocate General now agrees with me. The grounds for

my opinion are, that in all cases of offences committed by natives, not camp followers, and who are therefore not amenable to the Bazar Master, the offenders are handed over by that officer to the Magistrate of the Zillah. In a late case, the calassie of a civilian residing within camp limits committed a murder there: had he been a camp follower, he would have been tried by a court martial; but not being so, the military authorities had no jurisdiction, and he was handed over to the civil power, tried by the Magistrate of Kurrachee, and hanged,—the sentence having been confirmed by Government.

“5. In the case of an European not under military law, offending in camp, a precisely similar course should be adopted; the principle being that the camp is within the Zillah, *i. e.* within the Magistrate's jurisdiction, but that certain parties within that camp, *i. e.* military officers, soldiers, and camp followers, are removed from the Magistrate's jurisdiction, and made amenable to military courts. All that are left within that camp not so excepted, appear to me clearly to belong to the Magistrate's jurisdiction, and are punishable by him.

(Signed) J. GIBBS,

Judicial Assistant Commissioner in Sind.”

No. VII.

RULES REGARDING BATTA FOR SERVING PROCESSES IN CIVIL COURTS.

In order to avoid the continual transfers from one Court to another of the cost of serving processes, the batta for such service should be levied in advance, and credited at once by the Court issuing the same; and the process should then be forwarded to the proper quarter, with an indorsement thereon of the amount of batta that may have been levied and credited.

No. VIII.

RULES FOR THE DISPOSAL OF CIVIL SUITS IN WHICH CAFFILA MERCHANTS ARE PARTIES.

1. From the 1st October to the 1st March, the Judicial Deputy Magistrate and the Deputy Magistrate of Kurrachee will sit together on alternate days, either at the Kutcherry or at the Kardarate, to dispose of all disputes in which Caffila merchants may be parties.

2. Whenever practicable, and the litigant parties so consent, a dispute shall be referred to three traders or other persons unconnected with the case,

whose decision, when confirmed by the two sitting Government officers, shall be final: no costs shall be charged, and no record shall be kept thereof, further than an entry of the names of the parties, of the subject in dispute, and of the award, to be made in the handwriting of the presiding officer.

3. Should the parties not agree to a punchayet, the Judicial Deputy Magistrate shall summon four competent assessors to hear and decide the case as above. In such cases, the usual fee of five per cent. shall be levied on the party cast; there shall be no appeal, provided the Judicial Deputy Magistrate and assessors are unanimous in opinion.

4. The assessors shall be remunerated for their time and trouble, to such extent as the Judicial Deputy Magistrate may think proper.

No. IX.

REGARDING CATTLE STEALING.

The sentences which are within the powers of a Kardar to pass (4 months' imprisonment and flogging) not having been found sufficient to put a stop to cattle stealing, especially on the left bank districts, the following rules are laid down for the guidance of magisterial officers:—

I. No case in which there is a previous conviction on record against the prisoner, shall be disposed of by a Kardar, but must be committed for trial before the Deputy Magistrate of the district.

II. In such cases, the Deputy Magistrate should be guided by the number of convictions against the prisoner, and pass sentence accordingly.

III. In the case of noted offenders, a sentence of imprisonment for 7 years in Kurrachee Jail should be passed, such being, by the natives of Upper and Middle Sind, looked upon as equivalent to transportation.

No. X.

RULES REGARDING SECURITY.

The following Rules are published in explanation of Sections XXIV., XXV., XXVI., and XXVII., of Regulation XII. of 1827, on the subject of security and recognizance.

1. When a person is required to furnish recognizance, the bond should state that he is to be imprisoned without labour for a period not exceeding two years should he fail to pay the penalty, in the event of his breaking the engagement.

2. But instead of a pecuniary penalty, the bond may, for good reasons assigned, be made out with the penalty of imprisonment with hard labour for a period not exceeding 2 years, or solitary confinement for a period not exceeding 2 months, in the event of his breaking his engagement.

3. Where a person is ordered to produce securities for his good conduct, or for any other legal purpose, his surety or sureties shall engage to pay a sum of money, or to suffer ordinary imprisonment for not longer than two years without hard labour, in the event of his failing in the point for which they stood security; but in no case can the securities be made liable to the penalty of hard labour or solitary confinement.

4. The cases in which recognizances or security can be demanded are recited in Section XXV., from which it will be seen that penal security or recognizances can only be demanded for the performance of or abstaining from acts which the Magistrate has authority to compel or forbid.

5. No bond, either for security or recognizance, shall be binding for more than five years; and every bond may be redeemed at any time by the party surrendering himself or being delivered into custody.

6. When a person fails to give satisfactory security or recognizance when demanded, the Magistrate may adopt two courses.

1st. He may confine him in any jail until the occasion be past; for example, if a man is told to give security that he will not create a disturbance during the Mohurrum, and fails to give security, he may be confined till the Mohurrum is over; or a man called upon to give security for good conduct for 5 years, may be confined for 5 years; but such confinement may cease at any time, if the Magistrate decides on releasing him or on adopting the other course which is,—

2nd. The lenient precautions detailed in Clause 2, Section XXVII.

7. When a person is confined on failing to give security or recognizances, he should not be considered an ordinary convict, and he should not be kept to hard labour, but his treatment should be as free from hardship as is consistent with a due regard to his proper custody, and the prevention of the act which the recognizance or security was intended to prevent.

8. Whenever a man is thus confined by the order of any Magistrate, if it be considered necessary to confine him for a longer period than one year, the circumstances of the case shall be reported to the Commissioner at the expiry of the year; and the Commissioner will give orders for his further confinement, or otherwise.

9. When a person from whom recognizance or security shall have been taken forfeits his bond by the commission of any crime or act forbidden by the bond, the matter shall be investigated as a criminal proceeding in the manner laid down in Clause 2 of Section XXVI.

No. XI.

THE PUNISHMENT FOR ADULTERY.

1. By Act II. of 1845, fine or imprisonment, or both, are the only punishments awardable by law for Adultery.

2. This Act is now the only authority for punishing the offence. Prisoners should therefore be charged under Regulation XIV. of 1827, Section I, Clause 1, para. 7, and punished under Act II. of 1845.

No. XII.

PERIODICAL RETURNS.

CIVIL.

Monthly Returns.

Kardars and Moonsiffs are to send in monthly, by the 3rd of the month, to the Deputy Magistrate of the district, the return according to the authorized form, showing the number of civil suits filed and disposed of in their Courts.

The Deputy Magistrate shall embody these returns, together with those of his own Court, into one English return, and forward it to the Magistrate by the 8th of the month.

The Magistrate shall prepare one return in English, showing the work of all the courts in his zillah, and shall forward it to the Commissioner on a date not later than the 15th of the month.

Annual Returns.

The annual civil return shall be prepared by the Magistrate according to the prescribed form, and shall be forwarded to the Commissioner by the 1st February in each year.

CRIMINAL.

Monthly Returns.

The Kardars shall forward to the Deputy of the district, on the 4th of the month, a return, according to the prescribed form, of the cases disposed of by them under their ordinary powers.

They shall also forward, on the same date, a return showing the number and particulars of the cases disposed of by them under the extended powers.

The Deputy Magistrate will forward a translation of the former return, and will embody the latter in his own monthly return prepared in English, and forward it to the Magistrate by the 8th of the month.

The Magistrate will prepare one return showing the cases disposed of by the Kardars under their original powers, and another embodying all the returns furnished by the Deputy Magistrates, together with such cases as he may have disposed of himself without regular commitment by a Deputy Magistrate.

The Magistrate shall also furnish a return of all cases tried by himself or his Judicial Deputy, after previous committal by a Deputy Magistrate.

The Magistrate shall also furnish a return of all cases disposed of by himself or his Deputies in their capacity as Justices of the Peace.

These returns are to be despatched to the Commissioner on or before the 15th of the month.

Quarterly Returns.

The Magistrate shall forward, within 15 days of the expiration of the quarter, four returns according to the prescribed forms:—

1. Showing the number of prisoners confined in the district jails.
2. Showing the cases which have been referred to the Commissioner for confirmation.
3. Showing the number of untried prisoners under the charge of the Kardars, Deputy Magistrates, or other Magisterial officers.
4. Showing the number of cases for trial before the Magistrate or Judicial Deputy Magistrate after previous commitment.

Note.—No. 3 will be prepared by the Captain of Police, and forwarded through the Magistrate, who will examine and countersign it.

Annual Returns.

The Magistrate will furnish, on the 1st of February, a return, according to the prescribed form, showing the result of the criminal administration of his zillah.

The Captain of Police will, on the same date, furnish a report showing the working of the Police for the past year, according to the prescribed form.

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